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In the Supreme Court of the United States

OCTOBER TERM, 1928

No. 166

STATE OF ALABAMA AND ALABAMA PUBLIC SERVICE COMMISSION, appellants

v.

UNITED STATES, INTERSTATE COMMERCE COMMISSION, et al., appellees

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION

BRIEF FOR THE UNITED STATES AND FOR THE INTERSTATE COMMERCE COMMISSION

OPINIONS

The specially constituted District Court (Circuit Judges Walker and Foster and District Judge Grubb) filed no written opinion, but on February 14, 1928, filed an "order denying application for interlocutory injunction." (R. 236.)

The reports of the Commission appear as Docket No. 16295, *Fertilizers and Fertilizer Materials between Southern Points*, 113 I. C. C. 389 (R. 36–105); 123 I. C. C. 193 (R. 131–134); 129 I. C. C. 215 (R. 18–22).

JURISDICTION

The direct appeal to this court from the order entered February 14, 1928, denying the interlocutory injunction, was allowed March 8, 1928. (R. 239.) The suit was brought to set aside certain orders of the Interstate Commerce Commission dated October 3, 1927, and December 22, 1927 (R. 3; 224), and the jurisdiction of this Court on direct appeal rests on the Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 219, 220), and Section 238 of the Judicial Code as amended by the Act of February 13, 1925. (U. S. C. title 28, Sec. 47.)

QUESTION

In a proceeding instituted upon its own motion, and consolidated and heard with other proceedings begun by complaint of private parties, the Interstate Commerce Commission issued orders requiring, principally, (1) that certain common carriers, subject to its jurisdiction, operating in Alabama and other southeastern states, cease publishing their existing interstate carload rates for transportation of fertilizer and fertilizer materials between all points in specified territory and to publish and charge rates not in excess of those prescribed therein by the Commission as reasonable; (2) that such carriers operating into and through Alabama cease practicing undue discrimination against interstate commerce found by the Commission to

exist because of the relation of interstate and intrastate rates for the transportation of fertilizers and fertilizer materials, in carloads within the State of Alabama; (3) that the discrimination be removed by publishing on those commodities moving within that State intrastate rates which should be not less, for corresponding distances, than the interstate rates therein prescribed. By supplemental order, upon the same record, the Commission authorized certain so-called "weak" or short-line carriers, in addition to those "weak" or short-line carriers dealt with by its original order, to publish intrastate rates on the same commodities, in carloads, to exceed by not more than 50 cents per ton the interstate rates already prescribed.

The question is whether the orders are invalid (1) for lack of authority in the Commission to increase all the intrastate rates to remove the unjust discrimination against interstate commerce found by it to exist, (2) for lack of substantial support in the evidence, and (3) for indefiniteness and generality.

THE STATUTE

Pertinent provisions of the Interstate Commerce Act (24 Stat. 379) as amended by the Transportation Act of 1920 (41 Stat. 456), are:

> SEC. 3. (1) That it shall be unlawful for any common carrier subject to the provisions of this Act to make or give any undue or unreasonable preference or advantage to any

particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. (24 Stat. 379, 380.)

SEC. 13. (3) Whenever in any investigation under the provisions of this Act, or in any investigation instituted upon petition of the carrier concerned, * * * there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State. * * * the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this Act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, * * * to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State

authorities in the enforcement of any provision of this Act. (41 Stat. 456, 484.)

(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceedings affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding. (41 Stat. 456, 484.)

SEC. 15a. (2) In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under

honest, efficient, and economical management and reasonable expenditures for maintenance of way, structures, and equipment, earn an aggregate annual net railway operating income, equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: *Provided*, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

(3) The Commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the Commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient, and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: * * *. (41 Stat. 456, 488.)

STATEMENT

Facts leading up to the issuance by the Interstate Commerce Commission of its orders of October 3 and December 22 may be stated as follows:

In 1921, the Alabama Public Service Commission instituted an investigation into the reasonableness of freight rates on all commodities moving intrastate in that State, to which investigation all the steam railroads operating in Alabama were made parties, and as a result of the investigation mentioned, on May 26, 1924, the Alabama Commission prescribed two scales of mileage rates applicable on carload movement of fertilizers and fertilizer materials moving intrastate over railroad lines within the State, one scale being for single-line and the other for joint-line, application, and also prescribing rates on fertilizer and fertilizer materials moving in less than carload quantities. (R. 3–4.) Reasons prompting the Alabama Commission to promulgate the scales mentioned were stated by their witness Alldredge in his testimony before the Interstate Commerce Commission in the instant proceeding as follows:

> Agriculture has been in the past and still is the basic industry of the South, and fertilizer is an indispensable asset of the agricultural industry. It is a vital factor in agricultural production. After considering these important facts and all other pertinent facts, both commercial and transportation

surrounding the movement of fertilizer in this section, the Alabama Commission reached the conclusion in the case before it that it would be economically sound, in the general reorganization of our rate structure, of which the revision of fertilizer rates was a part, to assign to fertilizer, a relatively low basis of rates in order that it might move freely and thus contribute something to the welfare of the whole public, including the carriers.

(R. 813.)

A. Proceedings before the Commission

In a petition filed July 30, 1924, with the Interstate Commerce Commission on behalf of all the steam railroads operating in the State of Alabama, and referred to as Docket No. 16336, it was alleged that the Alabama Public Service Commission by its order of May 26, 1924, required said railroads to establish rates on fertilizers and fertilizer materials within said state which are less than those permitted or required by the Interstate Commerce Commission to be established for interstate traffic and that the observance by the railroads of said order of the Alabama Commission will cause and result in undue and unreasonable preference and advantage to intrastate commerce, to the undue and unreasonable prejudice and disadvantage of interstate commerce and will result in unjust and unreasonable discrimination against interstate commerce, in violation of Sections 3 and subdivisions 3 and 4 of Section 13 of the Interstate Com-

merce Act. (R. 188–201; 196.) Like complaints were filed with the Interstate Commerce Commission on behalf of the steam railroads operating in the states of South Carolina and Georgia, and these complaints were filed as Dockets Nos. 16335 and 16484, respectively. (R. 33, footnote 1.)

Considering these facts and others that had been brought to its attention, the Interstate Commerce Commission upon its own motion, by order dated October 7, 1924 (R. 105–106), instituted a comprehensive investigation into rates on fertilizers and fertilizer materials between Southern points, which proceeding it designated as Docket No. 16295.

The order recites that interstate rates on fertilizers and fertilizer materials between points in southern classification territory differ materially for substantially similar hauls and, in many instances, are higher for shorter than for longer hauls; that from numerous complaints filed with the Commission it appeared that those rates were unsatisfactory both to shippers and carriers, and that carriers had filed petitions alleging that intrastate rates on those commodities in South Carolina and Alabama cause undue advantage, preference and prejudice as between persons and localities in intrastate commerce on the one hand and interstate commerce on the other. The order specifies with particularity the rates to be considered and institutes an investigation:

> * * * with a view to determine whether said rates and charges are unreasonable or

> are unduly prejudicial to or unduly preferential of particular localities or persons and to making such order or orders as may be proper in the premises.

On October 14, 1924, the Commission issued an order (R. 207–208) instituting an investigation with respect to the complaint of the steam railroads operating in Alabama, Docket 16336, to determine whether the rates prescribed by the Alabama Commission:

> * * * cause or will cause any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate commerce or foreign commerce on the other hand, or any undue, unreasonable or unjust discrimination against interstate or foreign commerce; and as to what rates, if any, or what maximum or minimum, or maximum and minimum shall be prescribed to be charged by the petitioners, in order to remove such advantage, preference, prejudice, or discrimination, if any, as may be found to exist; * * *.

The various State cases heretofore mentioned, Dockets Nos. 16335, 16336 and 16484, involving rates in South Carolina, Alabama, and Georgia, respectively, were consolidated with the Commission's general investigation and heard upon the same record. (R. 37.)

Pursuant to this investigation, extensive hearings were had at Atlanta, Ga., Montgomery, Ala.,

and Washington, D. C., and the record before the Commission contained over 1,400 pages of testimony and 500 exhibits. The state commissions of Alabama, Georgia, Florida, Mississippi, Kentucky and North Carolina, were represented at the hearings and took an active and helpful part in developing the record. (R. 37.) Following the extensive hearings mentioned, briefs were filed, and a report proposed by the examiner was served upon the parties and to that report exceptions were filed by the carriers as well as by other interests (R. 37), including authorities of the state of Alabama. (R. 1022.) Oral argument was had before the Commission and, under date of July 19, 1926, the Interstate Commerce Commission issued its report herein entitled *"Fertilizers and Fertilizer Materials between Southern Points,"* 113 I. C. C. 389, in which it found, at page 424, (R. 82), with respect to the interstate rates involved in its general investigation:

> We therefore find that the rates applicable to the interstate transportation in carloads of mixed fertilizers and of the fertilizer materials listed in Appendix B hereto over standard lines throughout the territory described in Appendix A hereto are, and for the future will be, unreasonable to the extent that they exceed rates per net ton based on the distance scale shown in the table below,[1] subject to the minimum carload weights found reasonable below; provided,

[1] See R. 83–84 for table.

> however, that in applying such rates to the longer hauls the respondent carriers may for purposes of tariff simplification, subject to our approval, use groups of moderate extent and measure the rates by distances to and from fairly representative points in such groups.

Concerning the intrastate rates in Alabama the Commission found, page 435 (R. 101–102):

> That the maintenance of intrastate rates in Alabama on a lower basis than the corresponding rates herein found reasonable for the interstate transportation of fertilizers and fertilizer materials will for the future result in unjust discrimination against interstate commerce and in undue prejudice to persons and localities in interstate commerce.
>
> • • • • •
>
> No orders will be entered in these State cases, Nos. 16335,[1] 16336, and 16484, at this

[1] Since the Commission's decision in the *Fertilizer Investigation*, 113 I. C. C. 389, it has stated in Docket 16335, *Fertilizer Rates in South Carolina*, 147 I. C. C. 178, decided October 2, 1928, that (p. 179) on November 9, 1927, the South Carolina Commission authorized the carriers to establish, intrastate, the scale of rates the Federal Commission had prescribed in the *Fertilizer Investigation*, *supra*, with the exception that the rates were made subject to a carload minimum of 30,000, instead of 40,000, pounds. In the report, 147 I. C. C. 183, 184, the Interstate Commerce Commission found that a carload minimum of 30,000 pounds applicable intrastate in South Carolina would result in unjust discrimination against interstate commerce, and required the 40,000 pounds minimum to be established.

time. It is believed that the respective State commissions will cooperate in authorizing such revisions as may be necessary to bring their rates into harmony with the interstate adjustment.

With respect to the short or weak lines the Commission found, at pages 425–426 of its report (R. 85):

> We further find that the rates applicable to the interstate transportation, in carloads, of the aforesaid mixed fertilizers and fertilizer materials throughout said territory over routes made up, in whole or in part, of any of the short or weak lines described below are, and for the future will be, unreasonable to the extent that they exceed rates per net ton based on the distance scale shown in the table above plus an arbitrary of not to exceed 50 cents per ton, subject to the minimum carload weights found reasonable below, such arbitrary to accrue solely to the participating short or weak line or lines. The short and weak lines covered by this finding are the carriers listed in Appendix D hereto, other than those that are under common control or management with some standard carrier, and also include the Columbus & Greenville; the Kinston Carolina; the Carolina Railroad; the Gulf, Mobile & Northern; the Birmingham & Northwestern; and the Atlanta, Birmingham & Atlantic, so long as they remain independent of standard-line control.
>
> * * * * *

> * * * With respect to the so-called short or weak lines it may be said, as was stated in *Southern Class Rate Investigation*, 100 I. C. C. 513, 653–654, that most of these roads are situated wholly within the limits of a single State and the State commissions are in a much better position than we are to investigate and determine their needs. It is our hope that the State commissions will, either before or after the rates herein prescribed become effective, bring to our attention any instances where the special treatment accorded these short or weak lines is, in their opinion, more or less liberal than their just needs require.

Although, as stated by the Commission in its report of July 19, 1926, no orders were entered by it in the State cases at that time, it did, on said July 19, issue an order (R. 118–122) in connection with **the results of its general investigation into rates upon fertilizers and fertilizer materials between southern points, Docket 16295. By that order the** Commission directed the carriers to cease publishing their existing interstate rates, found in its report to be unreasonable, on fertilizers and fertilizer materials between all points located in southern territory as therein described, and to publish within a specified time and thereafter to charge interstate rates based upon a distance scale, not in excess of those therein prescribed.

On April 4, 1927, the Commission issued a supplemental report and order (R. 131–137) which, in

substance, added certain so-called weak or short lines to those named in the order of July 19, which prescribed for such lines an arbitrary of not more than 50 cents per ton in excess of the scale of rates set forth in the latter order. Another supplemental report and order (R. 18–23) was issued on July 5, 1927, dealing with the measure of relief to be accorded various other weak or short lines, and with petitions for relief from the long-and-short-haul provisions of Section 4.

After the issuance of the Commission's report on July 19, 1926 (R. 36–105), the Alabama Public Service Commission, by petition filed November 11, 1926, requested a rehearing before the Interstate Commerce Commission (R. 921.[1]) In passing, it may be noted that the Alabama Public Service Commission, in its petition for rehearing, stated that the mileage scales of fertilizer rates prescribed by it on May 26, 1924, for general application throughout the State of Alabama on intrastate traffic, if applied generally throughout southern territory, would have reduced the revenues of the carriers, based upon the traffic test made in the proceedings before the Interstate Commerce Commission, approximately $1,250,000 per annum. (R. 1034–1035.) This petition for rehearing was denied on February 7, 1927.

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[1] The petition for rehearing mentioned was, by stipulation of the parties, omitted in printing, but it was agreed that, subject to exceptions, a statement contained in paragraph (c) of the petition for rehearing should stand in lieu of the petition itself. (R. 1034–1035.)

Thereafter all the railroads doing business in the State of Alabama filed petitions with the Alabama Public Service Commission requesting that commission to authorize for intrastate application in Alabama the system of rates on fertilizers and fertilizer materials, and articles taking the same rates, prescribed for interstate traffic by the Interstate Commerce Commission in *Fertilizers and Fertilizer Materials between Southern Points, supra.* (R. 10.)

Argument on these petitions was had before the Alabama Public Service Commission at Montgomery on June 7, 1927, and on July 18, 1927, that commission entered its report and order denying the relief sought. (R. 10.)

By petition filed with the Interstate Commerce Commission on September 3, 1927, all the common carrier railroads doing business in the State of Alabama prayed that the Interstate Commerce Commission enter an order denying the maintenance of intrastate rates in Alabama on a lower basis than the corresponding rates found reasonable for the interstate transportation of said fertilizers and fertilizer materials, and articles taking the same rates, in order to finally complete the investigation and make effective the findings in *Fertilizers and Fertilizer Materials between Southern Points, supra.* (R. 11.)

Acting affirmatively upon this petition of the carriers, and in accordance with its finding of July 19, 1926 (R. 101–102), that the maintenance of

intrastate rates in Alabama on a lower basis than the interstate rates prescribed by its order of July 19, 1926, would, in the future, result in unjust discrimination against interstate commerce and in undue prejudice to persons and localities in interstate commerce, the Commission issued its order dated October 3, 1927 (R. 24), which is the first of the two orders assailed in this suit (R. 3). That order recites the Commission's finding of unjust discrimination just mentioned and requires that the carriers therein named:

> • • • be, and they are hereby, notified and required to cease and desist, on or before January 3, 1928, from practicing the undue prejudice, undue preference and advantages, and unjust discrimination found in said report to exist in the relation of interstate and intrastate rates and charges for the transportation of fertilizers and fertilizer materials within the State of Alabama. (R. 25.)

The order further requires the carriers to establish not later than a date named—

> • • • and thereafter to maintain rates and charges for the transportation of fertilizers and fertilizer materials in intrastate commerce within the State of Alabama which shall be not less for corresponding distances than the rates contemporaneously applied by said carriers, in accordance with our order of July 19, 1926, and as subsequently amended, to the transportation by

said carriers of fertilizers and fertilizer materials between points in the State of Alabama and points in other states of the United States. (R. 25.)

Upon petitions of various short-line or weak carriers operating in Alabama, and upon further consideration of evidence of record in the consolidated proceeding with respect to those carriers, the Commission entered its first supplemental order, dated December 22, 1927 (R. 225), in this proceeding (Docket No. 16336), which is the second of the two orders assailed in this suit. (Amended bill of complaint, R. 219.) Said order of December 22 amended the order of October 3, 1927, by including certain short or weak lines in addition to those named in the third paragraph of the order issued October 3, and by postponing the effective date of the last-mentioned order from January 3 to February 3, 1928. (R. 225.) On December 30, 1927, the effective date of that order was further extended to March 1, 1928.

B. Proceedings in the District Court

This suit to enjoin and annul the two orders last described was begun by petition filed December 21, 1927 (R. 1–17) and amended January 26, 1928 (R. 219–224), by the State of Alabama and the Alabama Public Service Commission naming as defendants the United States and the several carriers respondents to the order of October 3, 1927. The Commission intervened and filed an answer in

which it denied, generally speaking, all the material allegations of the petition (R. 147), as did the answers of the United States (R. 27) and the several carriers. The relief sought is stated in the petition (R. 16–17) as follows:

> (1) That on the filing of this petition, and after a hearing had on three days' notice to defendants, this court, under its order, temporarily stay or suspend the enforcement, operation and execution of the order and orders entered by the Interstate Commerce Commission under the proceeding known as "Fertilizers and Fertilizer Materials between Southern Points" in so far as such orders affect intrastate rates within the State of Alabama.
>
> (2) That an interlocutory injunction suspending and restraining the enforcement, operation, and execution of said orders of the Interstate Commerce Commission in so far as such orders affect rates for transportation wholly within the State of Alabama.
>
> (3) Enjoining defendant carriers until final hearing, from collecting the rates prescribed in the tariffs affecting rates on transportation wholly within said State claimed to be filed in conformity with the order of the Interstate Commerce Commission of October 3, 1927, and from collecting other or different rates than those prescribed for intrastate application by the Alabama Public Service Commission in the State of Alabama.

(4) That after further hearing in accordance with law, said court suspend, set aside, and annul the order of October 3, 1927, the findings of July 19, 1926, and any and all other orders or findings, authorizing, permitting or requiring interference with the intrastate rates of Alabama on the commodities of fertilizers and fertilizer materials.

(5) That a permanent injunction be granted against the carrier defendants, enjoining them as prayed in paragraph (3) of this prayer.

(6) That should the Interstate Commerce Commission permit, on the petition of November 29, 1927, hereinbefore referred to, the carriers therein named to file tariffs in accordance with the order of October 3, 1927, petitioners be permitted to amend and make such carriers parties defendant, and that all orders hereinbefore prayed for shall run against such carriers.

(7) That the court make such other and further order or orders as is meet and proper in the premises.

(R. 16–17.)

After full argument, the lower court, on February 14, 1928, entered an order denying the application for an interlocutory injunction (R. 236), and on March 8, 1928, an appeal to this court was allowed. (R. 239.)

SPECIFICATIONS OF ERROR

Appellants have assigned 15 errors (R. 241–244) which we believe may be summarized as follows:

(1) The Commission was without authority to regulate *all* the intrastate rates by changing them to the same level as the interstate rates, because of a difference in *some* rates, interstate and intrastate, there being no evidence of any burden on interstate commerce as to the larger portion of the intrastate rates.

(2) The Commission condemned intrastate rates in Alabama by comparing them with rates it fixed in its report of July 19, 1926, when as to such rates so fixed there had never been a hearing concerning their relationship to the rates intrastate in Alabama.

(3) The order of the Commission is void because it is general and indefinite in character.

(4) The making of a single mileage scale of rates for both single and joint-line hauls is unjust and unreasonable, and is contrary to the law and the evidence,

(5) The Commission acted arbitrarily in ordering fixed maximum and minimum rates applicable intrastate in Alabama while permitting the carriers to regard the interstate rates as but maximum rates.

(6) The Commission acted arbitrarily because its order is applicable to domestic rates only, when, without a consideration of

import rates, it is impossible to know whether a particular rate intrastate discriminates against any interstate rate.

(7) The Commission made its order applicable to short-line railroads without any evidence to support such action.

SUMMARY OF ARGUMENT

I. The issues laid by the complaints and the Commission's own order of investigation included (1) the reasonableness of the existing interstate rates and a determination of reasonable rates for the future, (2) whether the Alabama intrastate rates resulted in unjust discrimination against persons and localities in interstate commerce, and (3) in unjust discrimination against interstate commerce. The voluminous record in the consolidated cases contains much evidence specifically directed to each of those issues. Therefore the findings of the Commission, and its orders issued thereon, are fully supported by the evidence of record, and are not in excess of its authority or otherwise unlawful.

(a) There is no ground upon which to rest a contention that the Commission's action is confined to Section 3, because the petition of the carriers before the Commission specifically alleged that the intrastate rates in Alabama resulted in unjust discrimination both as against persons and localities in interstate commerce (Sec. 3), and against interstate commerce (Sec. 13, pars. 3 and 4), specifying and invoking both those sections. (b) The power of the Commission to require increases in the in-

trastate rates is a mere incident to the power of Congress, under the commerce clause, to regulate interstate commerce; hence, the orders are not violative of that clause of the Constitution, nor of Section 1 (a) of the Interstate Commerce Act. These contentions were settled in the *Shreveport Case*, 234 U. S. 342, 358, and *Railroad Commission of Wisconsin* v. *Chicago, Burlington & Quincy R. R. Co.*, 257 U. S. 563, 588–590.

II. The contention that there was no hearing by the Commission concerning the lawfulness of the relation between interstate rates and the intrastate rates, hence, a denial of due process of law, must be rejected; the record demonstrates that complete hearings were had, and fully supports the Commission's condemnation of the intrastate rates in its report of July 19, 1926. It is immaterial that its formal order thereon was not issued until October 3, 1927, after appellants had been afforded ample opportunity to cooperate with the Commission in removing the discrimination. *New England Divisions*, 261 U. S. 184, 200.

III. Upon authority of the *Wisconsin Case, supra*, the Court will reject the contention that the orders are invalid for indefiniteness and generality. Moreover, the contention is without merit because the orders definitely describe the commodities, the rates, the points of origin and destination, the territory and the carriers affected.

IV. Whether one rate should apply to both single-line and joint-line hauls is a question for de-

termination by the Commission upon the evidence. *Interstate Commerce Commission* v. *Union Pacific R. R. Co.*, 222 U. S. 541, 550. The Commission prescribed one scale of rates for both hauls, after consideration of evidence amply supporting that finding.

V. (a) Appellants' contention that the Commission arbitrarily fixed maximum and minimum intrastate rates while prescribing only maximum interstate rates is based upon a misconception of the orders. Carriers are required to publish interstate rates "not to exceed" those prescribed by the Commission, and intrastate rates "which shall not be less, for corresponding distances, than the (interstate) rates contemporaneously applied by said carriers."

(b) The Commission did not act arbitrarily in failing to prescribe import rates. Neither the order of investigation nor the complaints embraced foreign commerce.

(c) The argument that the Commission acted without evidence and "beyond the issues" with respect to the weak or short lines included in its order of December 22, 1927, ignores quantities of evidence submitted by several witnesses, concerning financial condition, volume of traffic, percentage of fertilizer traffic to total, and transportation conditions of the short-line railroads, in addition to the testimony concerning the reasonableness of their rates; 275 carriers were named respondents in the order instituting the investigation, most of whom were short

lines, and many operating in Alabama, and appellants acquiesced in higher rates for them. (R. 845.) Separate and specific evidence concerning each short line is not essential to the validity of the Commission's order. *O'Keefe* v. *United States*, 240 U. S. 294, 302–303.

I

THE FINDING OF THE INTERSTATE COMMERCE COMMISSION THAT THE MAINTENANCE OF LOWER INTRASTATE RATES ON FERTILIZER AND FERTILIZER MATERIALS IN ALABAMA THAN THE CORRESPONDING INTERSTATE RATES WOULD BE UNLAWFUL WAS JUSTIFIED BY THE RECORD

(a) The action of the Commission in this case is not confined to Section 3 of the Interstate Commerce Act, but embraces also Section 13 (3) and (4) of that Act

We understand the language contained in the 4th assignment of error that the lower court erred—

> In not enjoining the orders of the Interstate Commerce Commission sought to be enjoined herein because there was no substantial evidence before the Interstate Commerce Commission that the rates on fertilizers and fertilizer materials within the State of Alabama violated Section 3 of the [fol. 138] Acts to Regulate Commerce when such rates are compared with the scale of rates fixed by the Interstate Commerce Commission in its opinion of July 19, 1926. (R. 242.)

indicates on the part of appellants the purpose of confining the Commission's action to section 3

of the Act, but this not only overlooks the language of the petition of the carriers operating intrastate in the state of Alabama filed with the Interstate Commerce Commission on July 30, 1924 (R. 188–201), complaining of the discriminatory character of the Alabama intrastate rates, and which specifically invoked the provisions of section 13 of the Act (R. 196), but also the language of the Commission in its report in this case. In their petition to the Commission the carriers averred:

> Petitioners aver that the rates prescribed by the Alabama Public Service Commission, in its said order of May 26, 1924, on fertilizers and fertilizer materials, and articles taking the same rates, in carloads, for intrastate application between points in the State of Alabama, and now in effect, give an undue and unreasonable advantage, preference and prejudice as between persons and localities in intrastate commerce in Alabama on the one hand, and persons and localities in interstate commerce on the other hand, and are unjustly discriminatory against interstate commerce and place an undue burden upon interstate commerce, in violation of Section 3 and subdivisions 3 and 4 of Section 13 of the Interstate Commerce Act as amended by Section 416 of the Transportation Act of 1920.
>
> (R. 196.)

In the Commission's report (113 I. C. C. 389, R. 36–105) it is, among other things, stated:

> We come now to a consideration of the petitions of the carriers alleging undue prejudice against interstate shippers and localities and unjust discrimination against interstate traffic, in violation of sections 3 and 13 of the interstate commerce act, by reason of the intrastate rates maintained in Alabama, Georgia, and South Carolina. * * *.
>
> (R. 91.)

The finding of the Commission with respect to the Alabama intrastate rates is expressed in its report of July 19, 1926 (113 I. C. C. 389), as follows:

> With respect to these intrastate cases we find:
>
> 1. That the maintenance of intrastate rates in Alabama on a lower basis than the corresponding rates herein found reasonable for the interstate transportation of fertilizers and fertilizer materials will for the future result in unjust discrimination against interstate commerce and in undue prejudice to persons and localities in interstate commerce.
>
> (R. 101.)

A comparison of this language with the wording of Section 13 (4) of the Act, as above set forth, shows the great similarity between the two and leaves no room for doubt that not only was Section 13 invoked by the carriers before the Commission but that it was actually the basis used by the Commission for its action in the premises.

Furthermore, decisions of this court are to the effect that when a party applies to the Commission for relief under the Interstate Commerce Act and makes allegations tending to show violations of that Act, the Commission must make such an investigation in the premises as will enable it to pass intelligently upon the questions presented and grant any relief to which it finds the complainant entitled, regardless of any allegation, or lack of allegation, in the complaint concerning the section of the Act under which relief is sought. In *Chicago, R. I. & P. Ry.* v. *United States*, 274 U. S. 29, at pages 36–37, the Court said:

> *Fourth:* In disposing of the final objection, little need be said. The contention is that the commission was without power to predicate its order on paragraph (13) of Section 6 of the Act, because there is no formal reference in the complaint to that paragraph nor an order for an investigation under it on the commission's own motion. But the allegations of the complaint in matters of fact were sufficient to authorize the commission to consider the case under that provision as well as others; and this is enough. *To plead the law relied on, is no more necessary in a proceeding before the commission than it is in a judicial proceeding.* (Italics ours.)

From the above it is clear, we submit, that the Commission rightly considered Section 13 (3) and (4) in its decision in this proceeding, and no basis

exists for contending its action is confined to Section 3.

(b) The action of the Commission does not violate the Commerce Clause, Section 8, Paragraph 3, Article I, of the Constitution

The objections made here (Assignment of Errors 2 and 3—R. 242) that the Commission's order of October 3, 1927, violates the Commerce Clause of the Constitution, and Section 1, subdivision 2(a), of the Interstate Commerce Act providing that the Act shall not apply

> (a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid;

are disposed of by the decision of this court in *Railroad Commission of Wisconsin* v. *Chicago, Burlington & Quincy R. R. Co.*, 257 U. S. 563, at pages 588, 589–590, where the court, in overruling similar contentions, said:

> It is objected here, as it was in the *Shreveport Case*, that orders of the Commission which raise the intrastate rates to a level of the interstate structure violate the specific proviso of the original Interstate Commerce Act repeated in the amending acts, that the Commission is not to regulate traffic wholly within a state. To this, the same answer must be made as was made in the *Shreveport Case* (234 U. S. 342, 358), that such

orders as to intrastate traffic are merely incidental to the regulation of interstate commerce and necessary to its efficiency. Effective control of the one must embrace some control over the other in view of the blending of both in actual operation. The same rails and the same cars carry both. The same men conduct them. Commerce is a unit and does not regard state lines, and while, under the Constitution, interstate and intrastate commerce are ordinarily subject to regulation by different sovereignties, yet when they are so mingled together that the supreme authority, the Nation, cannot exercise complete effective control over interstate commerce without incidental regulation of intrastate commerce, such incidental regulation is not an invasion of state authority or a violation of the proviso.

* * * * *

* * * Congress in its control of its interstate commerce system is seeking in the Transportation Act to make the system adequate to the needs of the country by securing for it a reasonable compensatory return for all the work it does. The States are seeking to use that same system for intrastate traffic. That entails large duties and expenditures on the interstate commerce system which may burden it unless compensation is received for the intrastate business reasonably proportionate to that for the interstate business. Congress as the dominant controller of interstate commerce may,

> therefore, restrain undue limitation of the earning power of the interstate commerce system in doing state work. The affirmative power of Congress in developing interstate commerce agencies is clear. *Wilson* v. *Shaw*, 204 U. S. 24; *Luxton* v. *North River Bridge Co.*, 153 U. S. 525; *California* v. *Central Pacific R. R. Co.*, 127 U. S. 1, 39. In such development, it can impose any reasonable condition on a State's use of interstate carriers for intrastate commerce it deems necessary or desirable. This is because of the supremacy of the national power in this field.

Coming now to the allegation that the action of the Commission, in finding unjust discrimination and undue prejudice to persons and localities in interstate commerce caused by the maintenance of the lower Alabama intrastate rates, is not based on substantial evidence (R. 241), we believe that this necessitates, to a certain extent, a review of the testimony introduced before the Commission.

The testimony of Mr. Drescher, assistant to the vice president of the Louisville & Nashville Railroad Company, covers pages 441 to 482 of the printed record and the exhibits introduced by him in support of his testimony, Numbers 157 to 195, inclusive, are there explained. By this testimony Mr. Drescher traced the history of the freight charges assessed on fertilizers and fertilizer materials moving between points in Alabama from

1907 down to the time of the hearing, April, 1925 (R. 443–447); showed that the scale of rates on these commodities prescribed by the Alabama Commission in 1924 had taken away from the carriers most of the increase which they were granted in 1920 under *Ex Parte* 74, 58 I. C. C. 220 (R. 447); compared the rates on fertilizer which the Alabama Commission prescribed with the normal interstate rates maintained by the various Southern lines between Southern points (R. 449–450); showed that out of a total of 2,355 rates the Alabama scale is less than the interstate rates shown on the exhibit in 2,145 instances, higher in 182 instances, and the same in 28 instances (R. 450); showed that the substitution of the Royster scale, which is the scale that carriers propose, for the present interstate rates from these manufacturing points to destinations named will produce 1,114 reductions, 963 advances, and 278 instances in which there will be no change in the present rate (R. 450); called attention to the fact that the rates from Birmingham to stations on the Louisville & Nashville are very much less than the rates for corresponding distances from Nashville, Tenn., as illustrated by rates[1] from Birmingham to Athens, Ala., for 98 miles of $1.95 and from Nashville to an equi-distant station in Alabama, Elkmont, $2.59; showed that the rate from Birmingham to Elk-

[1] See small map in Appendix, p. 77, of this brief, to follow these rates.

mont, 107 miles, was $2.05, and from Nashville to Athens, the same distance, $2.59, and testified that there had been carload shipments in 1925 from Birmingham to stations in Alabama shown on the exhibit as follows: Trafford, Hayden, Blount Springs, Garden City, Haneeville, Cullman, Falkville, Hartselle, Decatur, Athens, and Elkmont. (R. 453.)

Mr. Drescher further testified that the rates from Nashville are higher for corresponding hauls than the rates from Birmingham; that the dip in the rates to the station that is as far from Nashville as Aspen Hill, Tenn., is from Birmingham is due to the low measure of the rate from Nashville to Decatur, which is the equi-distant point from Nashville, and that that rate is now $2.25 per ton and is less than the rate to points on either side of Decatur. (R. 454.) The witness also showed that the rate from Decatur, Ala., to Cullman, Ala., 32 miles south of Decatur, was $1.30, while to Prospect, Tenn., 30 miles north of Decatur, the rate is $1.69. (R. 460.) The witness' exhibit No. 170 showed the present rates from Decatur, Ala., versus Chattanooga, Tenn., to agency stations on the Southern Railway in Alabama between those two points, and further showed that Decatur is now able to ship into these Alabama points at rates very much less than Chattanooga to equi-distant points on the same line of railroad. To illustrate, Mr. Drescher called attention to the $1.65 rate from

Decatur to Scottsboro, Ala., for 66 miles, as against a rate of $2.10 for the same distance from Chattanooga, Tenn., to Lim Rock, Ala.; that the midway points would be Gurley, Ala., from Decatur, and Cedar Grove, from Chattanooga, and that the rate from Decatur to Gurley, Ala., is $1.40, and from Chattanooga to Cedar Grove is $1.80, a difference of 40 cents a ton in favor of the intrastate shipper. (R. 455.) Mr. Drescher further called attention to the adjustment from Decatur, Ala., versus Corinth, Miss., to intermediate agency stations on the Southern Railway, as shown by exhibit 176. This exhibit illustrates the advantage in rates to Alabama points possessed by Decatur over Corinth, Miss., for like hauls. (R. 458–459). Exhibit No. 178, dealing with the adjustment prevailing from Mobile, Ala., and Pensacola, Fla., to stations on the Louisville & Nashville as far north as Montgomery, shows the decided advantage that Mobile has to the greater portion of this territory. (R. 459–460.) Comparisons also were submitted showing the rate relation between the following points on the lines mentioned:

Birmingham, Ala., as compared with Atlanta, Ga., at intermediate points on the Southern Railway (exhibit 173) (R. 458); Montgomery, Ala., as compared with Richland, Ga., at intermediate points on the Seaboard Air Line (exhibit 174) (R. 458); Montgomery, Ala., as compared with Columbus, Ga., at intermediate points on the Cen-

tral of Georgia Railway (exhibits 175 and 180) (R. 458, 460); Birmingham, Ala., as compared with Tupelo, Miss., at intermediate points on the St. Louis-San Francisco Railway (exhibit 177) (R. 459.) At a later hearing Mr. Drescher further testified concerning the movement of fertilizer in cars and in tons from the Alabama shipping points and interstate shipping points covered by his earlier testimony. (R. 602.) Concerning the rate situation in Mississippi as compared with Alabama, Mr. C. W. Hayward, representing the Meridian, Miss., Traffic Bureau, said:

> In my exhibit 442, I show a comparison of the rates from Meridian, Mississippi, to points in Alabama and Georgia, compared with rates for similar distances from Montgomery and Atlanta points in Alabama, Georgia, and Mississippi.
>
> The rates as shown from Montgomery were taken from the Atlanta & West Point Fertilizer Tariff, 1035-B, I. C. C. 1145, and are specific rates. Since this statement was prepared, I understand that the Alabama Commission has adopted a scale of mileage rates, and there may be some differences as between the rates I have shown and those adopted by the Commission, if so, I will submit a correct exhibit.
>
> Fertilizer was in the Meridian Case. As to what was done with the rates on fertilizer in the prescribed zone in Alabama in that case: I will explain that. On my Exhibit 441, the rates to Alabama Great Southern

and Southern Railway stations, and Mobile & Ohio stations as shown, were the rates as prescribed by the Commission in I. C. C. Docket 9560.

They are the rates that now apply from Meridian to the zone covered by the Commission's order in the original Meridian Case, 200 miles from Meridian by way of the lines of the respective defendants. Now, those rates, so far as the jobbing points in Alabama, affected by the Commission's order are concerned, are equalized with Meridian, but it will be recalled that the Commission has only recently voided their order in the Meridian Case. Now, we apprehend that it is entirely possible and not altogether improbable that rates will be established by the State of Alabama or the Public Service Commission of Alabama within the Meridian zone that will be in accord with the scale that was prescribed by them for application between other points in the State, and if that is done, it will be easy to see the effect on Meridian.

The last column, which is the National Fertilizer Association's proposed scale, and is the same as the Alabama scale, will indicate to what extent we will be affected unless an equalization is accomplished by an order of the Commission, and the Alabama Public Service Commission adopts these rates within the Meridian rate case zone.

In my exhibit No. 442 it will be seen that the rates from Montgomery and Atlanta into Alabama, Georgia and Mississippi for dis-

tances, similar distances from Meridian to points in Alabama and Georgia, are materially lower than the rates from Meridian. After we pass 100 miles on this scale, the rates from Meridian and the rates from Montgomery, Alabama, are both interstate rates; we have from Meridian to Atlanta for 319 miles the rate of $3.60, and from Atlanta to Meridian for the same distance, of course, a rate of $3.15, so without going into detail and stressing this comparison, Mr. Examiner, we want to repeat our statement that we think equalization should be effected, that these discriminations should not be permitted, that we do not see any reason for maintaining a higher rate from Alabama to Meridian, than from Meridian to Atlanta. And, by the same token, any lower rates from Montgomery and Atlanta towards Meridian than from Meridian in the opposite direction over the same rails.

We have a large fertilizer factory in Meridian. They operate three factories, one in Meridian, one at Hattiesburg, and one at Shelbyville. And fertilizer is a commodity that is not necessarily limited to a restricted zone of distribution. The Meridian Fertilizer Factory can and does ship into Alabama, Georgia, Florida, and all over the Southeast, wherever they may place their product, and I do not know to what extent, whether they do to a very large extent, but it is not a commodity that is limited in its distribution.

> As to the movement into Mississippi, I know that there has been a movement from Alabama—possibly Montgomery, Alabama, into plants surrounding Meridian, into our trade territory and that has been possibly largely because of these discriminations in favor of the Montgomery shipper, the Alabama shipper. (R. 743–744.)

Much more testimony of similar import is in the record, but we believe we have summarized enough of it to show that the action of the Commission was warranted. This testimony showed the situation not only with reference to "certain rates along the border lines of Alabama and Georgia and of Alabama and Tennessee," concerning which appellant says there is a "possibility" of some discrimination (R. 13–14), but also along the border lines of Alabama and Mississippi on the west and Alabama and Florida on the south, thus covering the entire state of Alabama. Upon being asked why he did not carry around the borders of the State illustrations of discrimination, Mr. Drescher stated the reason for that to be the fact that he did not find a fertilizer factory just a short distance across the State line. (R. 476.) This testimony follows:

> "Q. I was just wondering why you did not carry around the borders of the State those illustrations of discrimination. You have left off the Mobile & Ohio and the Illinois Central—what was the purpose of that?

"A. I think the reason I did that was because I did not find a fertilizer factory just a short distance across the State line."

* * * * *

I spoke about the Illinois Central and the Mobile & Ohio, and said I thought the reason why I had left those out was because I could not find a fertilizer factory near the boundary; the Mobile & Ohio runs from Corinth, and Corinth is one of the points used in the case of the Southern; I used Corinth versus Decatur on the Southern Railway. The Mobile & Ohio also runs from Columbus right near the border; it gets into Columbus.

I don't recall whether there is a fertilizer factory at Columbus, or not. (R. 476–477.)

Mr. Drescher stated he knew of no transportation conditions existing that would warrant these abrupt breaks in the rates at the State lines, and that the only explanation he had for it was the action of the Alabama and Georgia state commissions in making lower rates between points within those states. (R. 456–7.) Witness McConnell, for the Central of Georgia Railway, on this point said (R. 495):

There is no such dissimilarity in the transportation of circumstances and conditions surrounding the handling of intrastate traffic on the one hand as compared with interstate traffic on the other than [that] in my opinion would justify a difference in rates; I know of no transportation condition that

warrants a different rate when a state line is crossed.

On this point the Commission, in its report of July 19, 1926, found:

> * * * the evidence indicates that the transportation conditions in Alabama are not dissimilar to those met with on the interstate hauls. (R. 93.)

The testimony for the Alabama Public Service Commission was presented by Mr. Alldredge, the head of its transportation department. In his testimony he stated that he appeared for the dual purpose of sustaining the Alabama rates in the 13th section case and to establish their reasonableness for general application on interstate traffic throughout the southeastern territory. (R. 812.) Mr. Alldredge's testimony covered the main considerations prompting the Alabama Commission in prescribing the scale of rates it did. (R. 812–819.) He also testified as to the elements to be considered in grading a fertilizer scale (R. 819–822); and that the Alabama Commission was influenced by the fact that average loadings of fertilizer had risen from 17 tons to 23 tons per car. (R. 817.)

Mr. Cooper, an accountant of the Alabama Public Service Commission, compiled and introduced certain exhibits, and testified concerning them, showing statistics in regard to the fertilizer movement in Alabama (R. 832); including percentage of fertilizer revenue of the total revenue (R. 833); the fertilizer traffic originated by Class I roads

(R. 834); the average weights per car of fertilizer originated and carried by Class I roads (R. 834); average hauls (R. 834–5); average receipts per ton-mile (R. 835); etc. The testimony of these witnesses, and other comparisons contained in the more than 500 exhibits[4] introduced in the proceedings before the Interstate Commerce Commission, constitute evidence upon which the Commission could base its finding (*Western Chem. Co.* v. *United States*, 271 U. S. 268, 271) that the lower intrastate rates in Alabama constituted the undue prejudice against interstate commerce condemned by the Act and which it was the Commission's duty, after hearing, to remove. The *Western Chemical Case, supra,* is also authority for the holding of the Supreme Court that it is beyond the court's province to consider the weight of the evidence. (P. 271.)

The voluminous record before the Commission affords an adequate basis for its condemnation of the Alabama intrastate rates contained in its report of July 19, 1926. Concerning the situation in Alabama the Commission briefly summarized the testimony before it, and then in its said report of July 19, *Fertilizers and Fertilizer Materials be-*

[4] By stipulation of the parties filed March 31, 1928 (R. 1030–1033), it was agreed that in making up the record for this court the 500 exhibits introduced before the Commission need not be printed in full, but that if either party intends to rely on any of said exhibits, they shall be printed in the briefs. (R. 1033.) (See Appendix to this brief for exhibits referred to herein.)

tween Southern Points, 113 I. C. C. 389, at pages 431 and 432 (R. 91–93), among other things, stated:

> Taking up, first, the Alabama situation, it is shown by numerous exhibits that the rates from points in Mississippi, Tennessee, and Georgia to destinations within Alabama are substantially higher than the Alabama rates for corresponding distances. A few illustrations will suffice to give a general idea of the present adjustment. In conjunction with the present rates are shown also the rates under the single-line Royster scale and under the scale herein found reasonable, for the distances shown:

From—	To—	Distance	Present rate	Royster scale	Scale herein prescribed
		Miles	Cents	Cents	Cents
Tupelo, Miss.	Glen Allen, Ala.	72	230	214	200
Birmingham, Ala.	do	71	170	214	200
Chattanooga, Tenn.	Larkinsville, Ala.	62	210	208	185
Decatur, Ala.	do	60	115	203	180
Nashville, Tenn.	Elmont, Ala.	96	270	289	225
Birmingham, Ala.	do	107	300	239	235
Columbus, Ga.	Superior, Ala.	66	203	180	165
Montgomery, Ala.	do	49	145	180	155
Columbus, Ga.	Alexander City, Ala.	75	237	214	200
Birmingham, Ala.	do	82	160	237	210
Rome, Ga.	Anniston, Ala.	63	210	203	185
Birmingham, Ala.	do	63	160	203	180
Atlanta, Ga.	Heflin, Ala.	93	200	237	210
Birmingham, Ala.	do	82	160	237	210

> In the foregoing table, destinations have been selected approximately equidistant from the respective origins, but for other distances the intrastate and interstate rates bear a similar relation. Manufacturing

> plants are located at all the originating points shown, and the evidence indicates that the transportation conditions in Alabama are not dissimilar to those met with on the interstate hauls.
>
> (R. 91–93.)
>
> While exact harmony between intrastate and interstate rates may not in all cases be required by the law, nevertheless when there is such a preponderance of intrastate traffic as here obtains, the conclusion is inevitable that the application of rates thereon substantially lower than the interstate rates contemporaneously applied under similar conditions must bring about, in some degree at least, the unjust discrimination against interstate commerce as well as the undue prejudice to persons or localities in interstate commerce which are declared by the act to be unlawful.
>
> (R. 93.)

To our minds this brings the action taken by the Interstate Commerce Commission clearly within the rule approved by this court in the *Wisconsin case, supra,* at page 579, where it said:

> First. The report and findings of the Commission undoubtedly show that the intrastate fares work an undue discrimination against travellers in interstate commerce and against localities (*Houston East & West Texas Ry. Co.* v. *United States,* 234 U. S. 342) in typical instances numerous enough to justify a general finding against a large class of fares. * * * Any rule which would require specific proof of discrimination as to

each fare or rate and its effect would completely block the remedial purpose of the statute.

See also *New England Divisions case*, 261 U. S. 184.

In speaking of the power conferred upon the Commission by Sections 13 (3) and (4) and 15a of the Interstate Commerce Act, the court, in the *Wisconsin case*, said, at pages 584–586:

> Under Title IV, amendments were made to the Interstate Commerce Act which included section 13, paragraphs 3 and 4, and section 15a, already quoted in the margin. The former for the first time authorized the Commission to deal directly with intrastate rates where they are unduly discriminating against interstate commerce—a power already indirectly exercised as to persons and localities, with approval of this court in the Shreveport and other cases. The latter, the most novel and most important feature of the act, requires the Commission so to prescribed rates as to enable the carriers as a whole, or in groups selected by the Commission, to earn an aggregate annual net railway operating income equa' to a fair return on the aggregate value of the railroad property used in transportation. For two years, the return is to be 5½ per cent with ½ per cent for improvements, and thereafter is to be fixed by the Commission
>
> • • • • •
>
> It is manifest from this very condensed recital that the act made a new departure.

Theretofore the control which Congress through the Interstate Commerce Commission exercised was primarily for the purpose of preventing injustice by unreasonable or discriminatory rates against persons and localities, and the only provisions of the law that inured to the benefit of the carriers were the requirement that the rates should be reasonable in the sense of furnishing an adequate compensation for the particular service rendered and the abolition of rebates. The new measure imposed an affirmative duty on the Interstate Commerce Commission to fix rates and to take other important steps to maintain an adequate railway service for the people of the United States. This is expressly declared in section 15a to be one of the purposes of the bill.

Intrastate rates and the income from them must play a most important part in maintaining an adequate national railway system. Twenty per cent of the gross freight receipts of the railroads of the country are from intrastate traffic, and fifty per cent of the passenger receipts. The ratio of the gross intrastate revenue to the interstate revenue is a little less than one to three. If the rates, on which such receipts are based, are to be fixed at a substantially lower level than in interstate traffic, the share which the intrastate traffic will contribute will be proportionately less. If the railways are to earn a fixed net percentage of income, the lower the intrastate rates, the higher the in-

terstate rates may have to be. The effective operation of the act will reasonably and justly require that intrastate traffic should pay a fair proportionate share of the cost of maintaining an adequate railway system. Section 15a confers no power on the Commission to deal with intrastate rates. What is done under that section is to be done by the Commission "in the exercise of its power to prescribe just and reasonable rates," *i. e.*, powers derived from previous amendments to the Interstate Commerce Act, which have never been construed or used to embrace the prescribing of intrastate rates. When we turn to paragraph 4, section 13, however, and find the Commission for the first time vested with a direct power to remove "any undue, unreasonable, or unjust discrimination against interstate or foreign commerce," it is impossible to escape the dovetail relation between that provision and the purpose of section 15a. If that purpose is interfered with by a disparity of intrastate rates, the Commission is authorized to end the disparity by directly removing it, because it is plainly an "undue, unreasonable, or unjust discrimination against interstate or foreign commerce," within the ordinary meaning of those words.

From what we have said it is apparent therefore that the action of the Commission in making the order was not arbitrary or without evidence which suppports fully the findings upon which the order is based, but that instead it adopted and followed a

procedure already approved by this court in the *Wisconsin case, supra.*

II

FULL HEARINGS WERE ACCORDED BY THE COMMISSION AND THERE WAS NO DENIAL OF DUE PROCESS OF LAW

Appellants 5th assignment of error (R. 242) states that the lower court erred:

> 5. In not enjoining the orders of the Interstate Commerce Commission sought to be enjoined herein for the reason that such orders condemned intrastate rates in Alabama in comparison with rates fixed by the Interstate Commerce Commission in a report dated July 19, 1926, when as to such rates so fixed there had never been any hearing concerning their relationship to the rates intrastate in Alabama.

In its report of July 19, 1926, the Commission stated that dissatisfaction on the part of shippers and users as well as of carriers with the rates on commercial fertilizer and fertilizer materials in southern territory had for some time been increasingly evident (R. 36), and as a result it instituted a general investigation into the matter. (R. 36–37.) This general investigation was given Docket No. 16295, and in this case shippers of fertilizer and fertilizer materials proposed rates and minimum weights thereon, for use in southern territory, the same as, or based on, those prescribed by the Alabama Commission on intrastate shipments

(113 I. C. C. 389, 404) (R. 57), which rates the carriers contend are unduly low (113 I. C. C. 389, 406) (R. 59), and counter with the proposal that a distance scale of rates, based on the *Royster Guano decision*, 50 I. C. C. 34, be applied for uniform application throughout southern territory. (113 I. C. C. 389, 394.) (R. 40.) Concerning the Alabama scale of rates proposed by the shippers the Commission stated in its report (R. 58):

> One of the shippers' principal witnesses admitted that the rates which they propose are, with the exception of rates within Mississippi and for short distances in Georgia, lower than any existing fertilizer rates in southern territory that have been prescribed either by us or by State commissions.

The examiner in his proposed report drafted a scale higher than the shippers' scale and lower than the carriers' scale. On this point the Commission in its report said (R. 76):

> * * * In his proposed report the examiner recommended a scale somewhat higher than the shippers' scale and somewhat lower than the carriers'. Upon argument the carriers conceded that the scale so recommended would about maintain their aggregate revenues. But our decision can not properly be predicated solely upon an attempt to average existing rates and maintain revenues. It is here our duty to determine what are

> maximum reasonable rates and to prescribe such rates, whether the effect be to increase or reduce the carriers' earnings. The traffic test furnishes evidence as to the level of existing rates, both interstate and intrastate, on fertilizer in southern territory; but while this evidence is entitled to weight in arriving at maximum reasonable rates it is not controlling.

The Commission then prescribed a scale somewhat different from that recommended by its examiner, and said (R. 82):

> Upon the record before us no other method of determining just and reasonable rates is possible than the exercise of our best judgment in the light of all the evidence submitted. After careful consideration of this evidence, which we have summarized above, and having in mind the principles which we believe should be applied in distributing the burden of rail transportation and which are also set forth above, we have reached the conclusion that a scale somewhat different from that recommended by the examiner, but producing much the same aggregate revenue, should be adopted.

As we understand the contention of appellants now being discussed, it is that as the interstate scale prescribed by the Commission in its report and order of July 19, 1926, differs from the interstate rates charged on fertilizer and fertilizer materials before that date, the Commission acted arbitrarily and beyond its authority in finding that the intra-

state rates in Alabama, as compared with the interstate scale the Commission prescribed in its order of July 19, would cause undue prejudice and unjust discrimination against interstate commerce; in other words that the condemnation of the Alabama rates by comparing them with the new scale of interstate rates prescribed by the Commission in Docket 16295 was beyond the issues and deprived appellants of due process of law in that they were not accorded a full hearing on that matter.

The order of the Commission of October 14, 1924 (R. 207), instituting this general investigation covered, among other things,

> what rates, if any, or what maximum or minimum, or maximum and minimum shall be prescribed to be charged by the petitioners [carriers], in order to remove such advantage, preference, prejudice or discrimination, if any, as may be found to exist;

The findings and conclusions upon which the Commission's order of July 19, 1926, are based are matters concerning which the court will not substitute its judgment for the judgment of the Commission. *United States* v. *New River Co.*, 265 U. S. 533, 542. Nor will the court "examine the facts further than to determine whether there was substantial evidence to sustain the order." *Interstate Com. Com.* v. *Union Pacific*, 222 U. S. 541, 548. As pointed out by this court, in *Virginian Ry. Co.* v. *U. S.*, 272 U. S. 658, at 665:

> The finding of reasonableness, like that of undue prejudice, is a determination of a fact by a tribunal "informed by experience." *Illinois Central Railroad Co.* v. *Interstate Commerce Commission*, 206 U. S. 441, 454.
>
> This court has no concern with the correctness of the Commission's reasoning, with the soundness of its conclusions, or with the alleged inconsistency with findings made in other proceedings before it. *Interstate Commerce Commission* v. *Union Pacific R. R. Co.*, 222 U. S. 541.

As we have pointed out, appellants were given a full hearing by the Commission on the questions at issue before it. In accordance with its established practice in such cases, the Commission permitted appellants, as well as interested shippers, communities, and localities, to participate in the hearings; and appellants were represented by counsel and took a prominent part in the proceedings. That counsel was permitted to introduce whatever revelant evidence he wished bearing upon the subject matter; to cross examine witnesses; to make objections to questions; to file briefs; and to participate in the oral argument before the Commission at Washington, causing the Commission in its report of July 19, 1926, to say:

> The State commissions of Alabama, Georgia, Florida, Mississippi, Kentucky, and North Carolina were represented at the hearings, and they took an active and helpful part in developing the record. (R. 37.)

The various hearings accorded by the Commission constituted a full hearing. As stated in the *New England Divisions Case*, 261 U. S. 184, 200:

> A full hearing is one in which ample opportunity is afforded to all parties to make, by evidence and argument, a showing fairly adequate to establish the propriety or impropriety, from the standpoint of justice and law, of the step asked to be taken.

And in the same case, at page 201, the court said:

> A hearing may be a full one, although the evidence introduced does not enable the tribunal to dispose of the issues completely or permanently; and although the tribunal is convinced, when entering the order thereon, that, upon further investigation, some change in it will have to be made.

The step proposed to be taken by the Commission in this proceeding, as clearly shown by its order instituting the general investigation, was

> * * * into and concerning said interstate rates on fertilizers, fertilizing compounds, and fertilizer materials and the charges resulting therefrom, applicable between points in the territory described in the next following paragraph, with a view to determine whether said rates and charges are unreasonable or are unduly prejudicial to or unduly preferential of particular localities or persons and to making such order or orders as may be proper in the premises.

Under Section 13 (4) of the Interstate Commerce Act it is made the duty of the Commission where it finds undue or unreasonable preference, prejudice, or discrimination against interstate commerce, caused by the lower intrastate rates (as it did in this proceeding, 113 I. C. C. 389, at 435) (Rec. 101), to

> prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, * * * in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination.

Under this provision of law it is undoubted that the Commission could have, in its order of July 19, 1926, required the removal of the unjust discrimination against interstate commerce and the undue prejudice to persons and localities in interstate commerce found by it to exist due to the maintenance of intrastate rates in Alabama on a lower basis than the corresponding interstate rates it found reasonable therein. Instead, however, the Commission left it to the Alabama authorities to " cooperate in authorizing such revisions as may be necessary to bring their rates into harmony with the interstate adjustment." (R. 102.) The failure of the Commission to exercise at that time the full power conferred upon it by the statute is not to be construed as an admission against it that it lacked that power, especially when it had before

it the suggestion of this court in the *Wisconsin case, supra*, at page 591, that

> • • • when the state commissions shall recognize their obligation to maintain a proportionate and equitable share of the income of the carriers from intrastate rates, conference between the Interstate Commerce Commission and the state commissions may dispense with the necessity for any rigid federal order as to the intrastate rates, and leave to the state commissions power to deal with them and increase them or reduce them in their discretion.

The Commission had a right to assume that the Alabama Commission would remove the undue prejudice and discrimination found by it to exist and that it would not be necessary to do more in the premises.

The claims of appellants that the Commission's action was beyond the issues and that they were not accorded a full hearing are without merit.

III

THE ORDER OF THE COMMISSION IS DEFINITE IN CHARACTER

Since Section 13, paragraphs 3 and 4, was added to the Interstate Commerce Act by the Transportation Act of 1920, these paragraphs have been construed by this court in several cases, and the leading case in this connection of course is the *Wisconsin case*, 257 U. S. 563. Almost every word of the decision of the court in the *Wisconsin case* is appli-

cable here, because the orders in both cases are in substance the same. In addition, an actual examination of the order will show it is definite because in the order, the classes of traffic to be affected by the intrastate rates and charges to be put in force are definitely described, the carriers which are required to comply with the terms of the order are plainly designated, and the territory within which the rates and charges are to be applied is pointed out with certainty. (R. 24–25.)

IV

IN PRESCRIBING A SINGLE-LINE SCALE OF RATES FOR BOTH SINGLE AND JOINT-LINE HAULS THE COMMISSION'S ACTION WAS JUSTIFIED AND WAS NOT ARBITRARY IN CHARACTER

Assignment of Error No. 7 (R. 242–3) alleges that the lower court erred:

> In not enjoining the orders of the Interstate Commerce Commission sought to be enjoined herein, which orders prescribed one class of rates applicable both to single-line and joint-line hauls, for the reason that the issues and testimony presented to that Commission in the cause in which such orders were entered related solely to the establishment of two classes of rates, one applicable to a single carrier and one applicable to two or more carriers joining in the same haul, such orders of the Commission being without evidence to support them and being entered in violation of the fifth amendment to the Constitution of the United States and

the laws of the United States which give petitioners a full hearing in due process of law.

Under date of March 9, 1925, before any hearings had been held in this proceeding, a notice (R. 216–219) signed by Commissioner Eastman, in charge of the case, was issued to all interested parties, stating in a general way what would be expected to be developed at the hearings, and, among other things, appears the following:

> 12. What, if any, should be the differentials between single-line and joint-line rates? (R. 218.)

On this question the Commission in its report said:

> Carriers and shippers both acquiesced in the idea that the rates should be somewhat higher for joint-line than for single-line hauls. The carriers would maintain such a difference for all hauls, while the shippers would have it disappear at 500 miles. In the *Southern Class Rate Investigation, supra*, we prescribed the same class rates for both classes of hauls, making the scale for this reason somewhat higher than it would have been if prescribed for single-line hauls only. In general the parties are in accord that whatever rule for computing distances is applied in connection with class rates shall be employed also for determining the rates here in issue. In our second supplemental report in the *Southern Class Rate Investigation*, 113 I. C. C. 200, decided July 19, 1926,

we found that in computing distances the shortest routes should be used over which carload freight can be moved without transfer of lading, making the scale somewhat higher than if the "shortest workable" routes had been used as the measure. Carriers and most shippers agree that some definite rule for the computation of distances which may be applied without the exercise of judgment is desirable, inasmuch as it lessens the time and expense of preparing rates for publication and avoids controversies as to the proper rate-making distances. Unquestionably, also there are many practical advantages in adopting a uniform rule for computing distances. When one basis is adopted and consistently adhered to, distances once computed may be applied for the ascertainment of rates on any commodity or class, where distance scales are employed.

In a general way the same principle applies to the question of whether rates for joint-line service should be made higher than those for single-line service. If on one commodity arbitraries for joint-line service be employed, while on another commodity one scale is used for both single-line and joint-line service, the distance which determines the rate between particular points will often be different in one case from that in the other. There will also be like variations as between different commodities on which joint-line arbitraries are applied, depending upon the volume of the arbitrary as

compared with the volume of the single-line rate to which it is added.

Manifestly where no additions are allowed for joint-line service and where short-line distances are used as [the measure] the single scale should be correspondingly increased. As above noted, of the total fertilizer traffic covered by the traffic test, single-line rates were applied to 67 per cent. Joint-line arbitraries were therefore applied to only about one-third. It is also true that where joint-line arbitraries are used the carriers in many instances do not secure the full amount of the arbitrary nominally applicable for any given distance, for often slightly longer single-line routes will determine the applicable rates. Under the circumstances the elimination of joint-line arbitraries will require a comparatively small increase in the single-line scale. (R. 80–81.)

The fact that both carriers and shippers proposed arbitraries to be used in constructing joint-line rates is unimportant. The Commission's notice of March 9, 1925, above referred to, invited the introduction of evidence as to what differentials, if any, should obtain between joint-line and single-line rates. (R. 218.)

Pertinent evidence submitted to the Commission on this point includes: Testimony showing that Class I roads in southern territory proposed to shippers a scale of rates to apply uniformly for single and joint-line hauls (R. 248); a scale of rates

proposed by the Freight Traffic Manager, L. & N. R. R., the joint-line rate under this proposed scale being generally 34 cents higher than the single-line rate (R. 258); exhibit 35, showing rates on fertilizer, carloads, between points in the state of Mississippi, which are generally applied for single-line movement throughout the State (R. 374); testimony showing rates between various points and whether single or joint-line hauls were used (R. 419–420); exhibit 158, showing rates, carloads, proposed by the Alabama carriers for single-line application on fertilizer, in effect prior to July 25, 1924 (R. 444); exhibit 157, showing the scales of rates prescribed by the Alabama Commission for single and joint-line application over the so-called standard roads operating within that State (R. 442–3); exhibit 164, comparing interstate rates on fertilizer from manufacturing points in Alabama for single-line application up to 200 miles from the manufacturing points, with the rates on basis of the Alabama Commission's scale and on basis of the third Royster scale (R. 449); testimony to the effect that by far the bulk of the fertilizer traffic in Georgia moves over a single-line scale (R. 498); exhibit 212, showing present and proposed local mileage single-line rates on fertilizer between points in Florida as compared with the proposed Royster scale (R. 515); and exhibit 243, showing present rates, carloads, on fertilizer, for single-line application, as now effective between points in North Carolina intrastate as well as between points

in Virginia intrastate (R. 562–563). Further, the Commission, in its report of July 19, 1926, concerning fertilizer rates in official territory, said:

> The joint-line rates in this territory are on the same level as the single-line rates. (R. 48.)

Reference is made to the following pages of the record in connection with the single-line scale prescribed by the Commission: 563, 565–566; 569; 570; 577; 584; 685–690; 694; 756–758, and 844.

This court, in *Int. Com. Com.* v. *Union Pac. R. R. Co.*, 222 U. S. 541, used pertinent language in this connection when it said at page 550:

> With that sort of evidence before them, rate experts of acknowledged ability and fairness, and each acting independently of the other, may not have reached identically the same conclusion. We do not know whether the results would have been approximately the same. For there is no possibility of solving the question as though it were a mathematical problem to which there could only be one correct answer. Still there was in this mass of facts that out of which experts could have named a rate. The law makes the Commission's finding on such facts conclusive. * * *

The above is directly contrary to the allegation (R. 242) that there was no evidence upon which the Commission could properly base a single scale applicable both to single-line and multiple-line hauls.

V

OTHER OBJECTIONS TO THE ACTION OF THE COMMISSION

(a) The contention that the Commission acted arbitrarily in ordering fixed maximum and minimum rates in Alabama while permitting the carriers to regard the interstate rates as but maximum rates is without merit

In prescribing the mileage scale for interstate application, the Commission fixed rates of "not to exceed" those designated in the scale, i. e., maximum rates, but there is no restriction upon the carriers from putting in lower rates if they so desire. (R. 118–122.) The intrastate rates the Commission is requiring the carriers to put in effect in Alabama are rates "which shall not be less, for corresponding distances, than the rates contemporaneously applied by said carriers" under the order of July 19, 1926. (R. 24–25.) In other words, the same rates are to be applied intrastate as interstate, for corresponding distances, and if the carriers establish lower rates for interstate application than the maximum prescribed in the order of July 19, those lower rates must also be established for intrastate application.

The petition, paragraph 27(g) (R. 15), states that the interstate rates prescribed by the Commission are "subject to exceptions and deviations at the will of the carriers" when as a matter of fact the order of July 19 permits the carriers to "use groups of moderate extent" "*subject to the*

approval of the Commission." (R. 119.) This gives the State ample opportunity to object to any "deviations" from the Commission's order.

(b) In confining its action to domestic rates only, without consideration of import rates, the Commission did not act arbitrarily

Concerning import rates the Commission in its report, 113 I. C. C. 389, 428–429, said:

> The carriers object to consideration of the import rates in this proceeding, contending that our order did not embrace that traffic. The shippers take the opposite view. Rates on foreign commerce are not covered by the order and hence, under strict construction, the investigation does not include import rates. This point, however, is not of importance, for the shippers do not urge specific findings at this time with respect to import traffic. Both the carriers and the shippers propose a limited system of port equalization, brought about, in general, by applying the domestic-distance scales from the nearest port and placing other competing ports within reasonable limits upon the same basis. This equalization would apply only to points located some little distance from the seaboard, say, 200 miles from the nearest port. For the shorter distances the rates from each port would be made in accordance with the scale. In such equalization the Gulf ports and the south Atlantic ports are to be considered two distinct and unrelated groups.

> It seems to be the shippers' thought that the carriers should propose and submit to them for their study and suggestions a comprehensive adjustment covering import traffic. No objection was voiced by the carriers to such procedure. (R. 88–89.)

It will be noted from the above that the Commission was not asked to make any findings with respect to import rates and in fact did not include import rates in its order. If, later, further action must be taken in this respect, it will be time enough to complain of the Commission's action then.

In *New England Divisions, supra,* the court, at page 201, said:

> A hearing may be a full one, although the evidence introduced does not enable the tribunal to dispose of the issues completely or permanently; and although the tribunal is convinced, when entering the order thereon, that, upon further investigation, some changes in it will have to be made.

(c) In making its order applicable to short-line railroads the Commission's action is supported by evidence

Under Assignment of Error No. 13, appellants claim that the action of the Commission in permitting, by its First Supplemental Order of December 22, 1927, in Docket No. 16336 (R. 225, 226), certain short-line railroads named therein, 19 in number, to increase their rates on fertilizer established by the Alabama Commission, was arbitrary because beyond the issues involved in the investi-

gation and for the reason that there was no evidence to sustain its action.

Concerning the proposal of the short lines, the Commission, in its original report, 113 I. C. C. 389, at p. 411–413, said:

> The American Short Line Railroad Association, on behalf of its southeastern members, seeks a special basis of rates for these short lines because of their poor financial condition and limited traffic resources. The general basis of interstate rates on fertilizer to points on these lines is now the full combination over the trunk-line junction point. Intrastate rates are made, as a rule, on the combination basis less certain percentages, which vary in the different States. In Georgia the full combination obtains. In Alabama, on the other hand, joint rates between trunk-line and short-line points are made 10 per cent higher than the joint trunk-line scale. The local short-line rates in that State are 20 per cent higher than the rates of the standard lines, and for joint short-line hauls the same differentials are added as obtain between the single and joint standard-line rates. This Alabama adjustment is the one which the shippers propose for general application. (R. 65.)
>
> Any detailed discussion of the situation with respect to the Association lines seems unnecessary. It has received consideration in other cases, including *Southern Class Rate Investigation, supra*, where, except in a few instances, the necessities of these short

> lines were recognized. They have been accorded special treatment by most of the States and, in general, the shippers seem to favor such treatment. In 1924, according to an exhibit filed by their representative, many of these carriers had a deficit in net railway operating income and comparatively few had good earnings. (R. 67.)

The order of the Commission of July 19, 1926, as amended on April 4, 1927, required the short or weak lines to establish, maintain, and apply to—

> the interstate transportation in carloads of mixed fertilizers and fertilizer materials between points in the territory described in Appendix A to the original report herein on, or via, the so-called short or weak lines set forth in Appendix D to the original report and in Appendix DD to the supplemental report herein, including the Columbus & Greenville Railway Company, the Kinston-Carolina Railroad Company, the Carolina Railroad Company, the Gulf, Mobile & Northern Railroad Company, the Birmingham & Northwestern Railway Company, the Atlanta, Birmingham & Atlantic Railway Company, the Washington & Old Dominion Railway, the Apalachicola Northern Railroad, the Mississippian Railway, the Gainesville Midland Railway, the Milltown Air Line Railway, the Cadiz Railroad, the Mississippi Central Railroad, the St. Marys Railroad, and the Jackson & Eastern Railway, so long as said carriers remain independent of standard-line control, excepting

> only the Norfolk Southern Railroad and such short or weak lines as may be under common control or management with a standard line, rates which shall not exceed rates based upon the scale hereinbefore set forth by more than 50 cents per ton of 2,000 pounds, subject to the minimum carload weights hereinbefore prescribed. (R. 136–137.)

In the Commission's general investigation there were 275 carriers made respondents. (R. 210–215.) Many of these, if not most of them, were short or weak lines, and many operated in Alabama. Obviously testimony as to each one of these carriers is not required. Mr. Streyer, Traffic Manager of the American Short Line Railroad Association, appeared for the southeastern members of his organization, 78 in number. (R. 113–114.) His testimony covers pages 582–598 of the record, and, among other things, he testified as to the fertilizer tonnage the short lines handle. This witness stated that the movement of fertilizer on quite a number of short lines constituted a very considerable part of their total tonnage; that the traffic moves during a relatively short period, mostly during two or three months of the year, in large volume and has the effect of congesting the sidings of the short lines, thereby increasing the cost of handling the traffic. (R. 586–587.)

In testifying regarding the 50-cent arbitrary that the short lines requested permission to add to

the trunk line scale of rates on fertilizer, Witness Streyer stated that it would require an addition of 75 cents per ton to the scale in order to make the business profitable to the short lines but that it was felt that 50 cents a ton was as high as they could maintain on account of cross-country competition with the trunk lines. (R. 589.)

As indicating the financial condition of the short lines that are requesting the Commission to permit them to assess rates 50 cents a ton higher than the trunk line scale, Witness Streyer filed as exhibit No. 285[4] a two-page statement showing the result of operation on these lines during the calendar years 1923 and 1924. This exhibit shows the weak financial condition of the short lines and indicates their pressing needs for greater revenues.

In this exhibit are also shown for 65 short lines, the average miles main line operated, total railway operating revenue, total railway operating expenses, net revenue from railway operations, railway tax accruals, uncollectible railway revenue, railway operating income, total additions to railway operating income, deductions from railway operating income, net railway operating income, nonoperating income, gross income, deductions from gross income, net income and total investment. Exhibit 287,[4] Witness Streyer, shows, for 37 short lines, the average revenue per ton, per ton-mile,

[4] See appendix hereto for exhibits mentioned.

per car-mile, and per car, for the calendar year 1923.

In view of this showing the witness stated that should any reduction be made in the fertilizer rates, one of the leading commodities handled by these short lines, it would aggravate the existing alarming condition. (R. 588.) Illustrations of the bad conditions existing on the short lines were then given. (R. 591–596.) On behalf of the shippers, it was testified that so far as the short lines were concerned there was no opposition to generous treatment. (R. 759.) Mr. Alldredge, for the Alabama Commission, admitted the short and weak lines should have a higher basis of rates than the standard lines. (R. 845.)

In its report of July 19, 1926, the Commission also stated:

> All carriers not covered by the findings of the two preceding paragraphs shall be classed as standard. With respect to the so-called short or weak lines it may be said, as was stated in *Southern Class Rate Investigation*, 100 I. C. C. 513, 653–654, that most of these roads are situated wholly within the limits of a single State and the State commissions are in a much better position than we are to investigate and determine their needs. It is our hope that the State commissions will, either before or after the rates herein prescribed become effective, bring to our attention any instances where the special treatment accorded these short or weak lines is, in their opinion, more or less

liberal than their just needs require. (R. 85.)

So far as the record shows, the authorities of Alabama never complained to the Interstate Commerce Commission, as requested by that Commission to do in case of dissatisfaction, of the treatment accorded the short lines.

Testimony and exhibits dealing with certain of the short lines included in the Commission's supplemental order of December 22, 1927, together with many other short lines, will be found in exhibits 285[1] and 287 and record pages 599–600 and 549–560. As stated, no objection to granting the short lines special treatment was made by any party; in fact their needs for higher revenues were recognized by the shippers and the state itself, as shown by the testimony. Mr. Gill, on behalf of certain short-line carriers, testified:

> The State Commissions of Alabama, Mississippi, and Tennessee have also in the past and do now recognize these lines as requiring special treatment, and they have been, are permitted, and do now maintain higher intrastate rates than applicable over trunk lines. This is mentioned merely to illustrate that these lines, account of location, financial and physical conditions, traffic density, and nature of traffic, can not afford to operate rates in effect on strong trunk lines. (R. 556.)

[1] Please note that Ex. 285 is in 3 parts, covering pp. 97–105 of appendix to this brief.

Counsel for the fertilizer interests stated they favored "rather generous" treatment of these carriers (R. 759), and one of the principal witnesses for the fertilizer interests stated:

> It is our thought as to the entire field of inquiry, the interests we are here representing are entirely content to abide the trend of thought in the Commission as a consequence of its more general study of that [the short line] problem. (R. 758–759.)

Intrastate revenues have an important part to play in the maintenance of an adequate national transportation system, *Wisconsin case, supra*, and no objection being made to higher rates for the short lines, the Commission was justified in the course it pursued. It seems to be the amount of the differential to be accorded the short lines, rather than the fact that there should be in fact a differential as all parties admit, that the State objects to. This, however, is an administrative question, and the action of the tribunal charged with the duty of making these administrative decisions, not being arbitrary or in excess of statutory authority, will not be disturbed by the courts.

The method pursued by the Commission here is similar, in our opinion, to that followed by it, and approved by this Court, in *O'Keefe* v. *United States*, 240 U. S. 294, where the Court said at pages 302–3:

> It was testified that there was no evidence before the Commission to sustain its finding to the effect that any allowance or division in excess of the limits prescribed would result

in undue preference and unjust discrimination. This, of course, is to be tested by a consideration of the evidence that was before the Commission. The record and supplemental report of April 23 and May 14, and the orders of May 14 and October 30, 1912, and the oral evidence and main exhibits before the Commission from the beginning of the tap-line investigation to the making of the order last mentioned were offered in evidence. Appellant, however, has printed only a small part of the testimony, being that which especially relates to the Louisiana & Pacific Railway, its organization, ownership, manner and cost of construction, operating revenue and expenses, accumulated surplus, etc. But, besides these details as to this line, the Commission had before it, as its reports show, a mass of evidence relating to numerous other tap lines, operated under somewhat similar circumstances, including evidence as to the allowances actually made to them out of the joint rate. Evidence of what was allowed on these tap lines had a tendency to show what was reasonable and therefore permissible upon other tap lines, including the Louisiana & Pacific. It is said there was no evidence to enable the Commission to fix a just compensation to that line for a haul of a given number of miles as compared with the just compensation for a haul of a greater or lesser number of miles; no evidence as to terminal expenses, or cost of road haul, or the relation between these factors, or as to other elements which should be

taken into account in fixing a division according to the length of haul. But the evidence showed that some limitation was called for, and, in general at least, furnished the materials upon which to base it. A tribunal such as the Interstate Commerce Commission, expert in matters of rate regulation, may be presumed to be able to draw inferences that are not obvious to others.

In *Terminal R. R. Assn.* v. *United States*, 266 U. S. 17, at page 30, the court said:

> The making of rates is a legislative and not a judicial function. (Citing cases.)

And in the *Assigned Car Cases*, 274 U. S. 564, at page 583, this statement appears:

> • • • The Commission, like other legislators, may reason from the particular to the general.

In *New England Divisions*, 261 U. S. 184, 197, this Court said:

> Obviously, Congress intended that a method should be pursued by which the task, which it imposed upon the Commission, could be performed. The number of carriers which might be affected by an order of the Commission, if the power granted were to be exercised fully, might far exceed six hundred; the number of rates involved many millions. The weak roads were many. The need to be met was urgent. To require specific evidence, and separate adjudication, in respect to each division of each rate of each carrier, would be tantamount to denying the

possibility of granting relief. We must assume that Congress knew this; and that it knew also that the Commission had been confronted with similar situations in the past and how it had dealt with them.

For many years before the enactment of Transportation Act, 1920, it had been necessary, from time to time, to adjudicate comprehensively upon substantially all rates in a large territory. When such rate changes were applied for, the Commission made them by a single order; and, in large part, on evidence deemed typical of the whole rate structure.

CONCLUSION

We submit that the method of action pursued by the Commission in this case has impliedly met with this Court's approval in the *Wisconsin Case*, 257 U. S. 563, 591.

Between the date of the Interstate Commerce Commission's report of July 19, 1926, and its order of October 3, 1927, the Alabama Commission had over 14 months in which to remove the unjust discrimination and undue prejudice against interstate commerce found to exist before there was a "rigid federal order" issued. Given ample opportunity to act in line with the Commission's finding, and not having done so, it became then the duty of the Commission to remove the unjust discrimination against interstate commerce found by it to exist, which it did by the promulgation of its order of October 3, 1927.

The decision of the lower court denying the application for an interlocutory injunction should be affirmed.

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Solicitor General.

E. M. REIDY,
For Interstate Commerce Commission.

DANIEL W. KNOWLTON,
ELMER B. COLLINS,
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APPENDIX

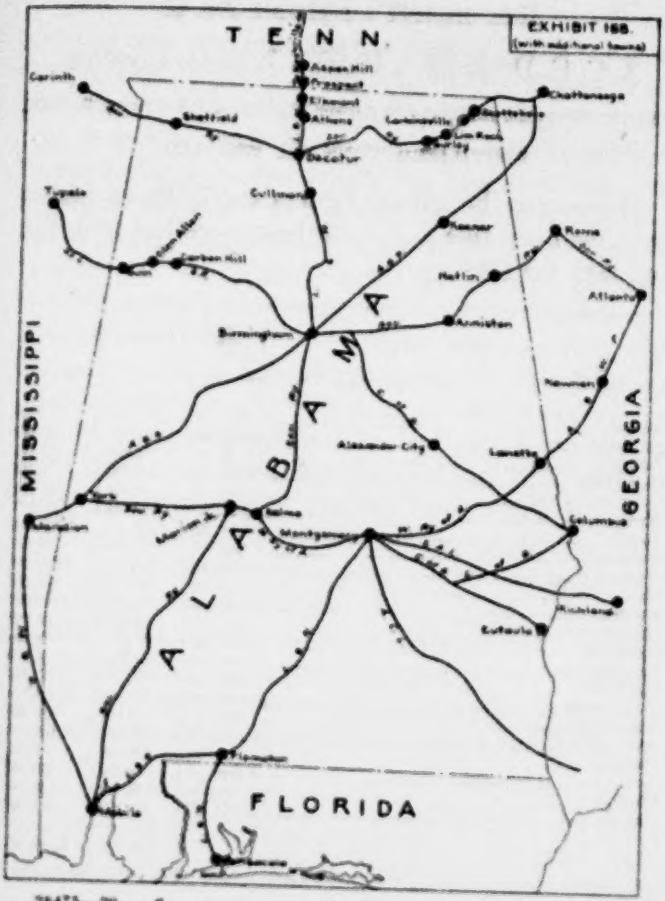
EXHIBIT 168.
TENN.
MISSISSIPPI
ALABAMA
GEORGIA
FLORIDA

Respondent's Exhibit No. 35

I. C. C. Docket No. 16295. Witness Gardner

[Extract from the American Fertilizer Magazine of February 7, 1925]

FERTILIZER TONNAGE FOR 1924

Below are the official figures for 1924, as far as we have been able to obtain them, together with the tonnage for 1923:

State	Fiscal year ending—	1923	1924
		Tons	Tons
Alabama	Sept. 30	630,700	672,240
Arkansas	Sept. 30	74,779	81,000
California	June 30	71,304	65,091
Connecticut	June 30	75,000	78,650
Delaware	July 1	80,000	87,150
Florida	Dec. 31	393,564	365,317
Georgia	Dec. 31	673,900	679,970
Kentucky	Dec. 31	90,000	93,000
Louisiana	Aug. 31	109,711	120,260
Maine	Dec. 31	160,000	162,000
Maryland	Dec. 31	134,940	130,000
Massachusetts	July 1	65,700	61,905
Mississippi	Sept. 30	214,854	216,000
New Hampshire	Oct. 31	16,000	16,000
New Jersey	Oct. 31	137,490	133,417
North Carolina	June 30	1,001,811	1,100,114
Pennsylvania	Dec. 31	370,450	325,000
South Carolina	June 30	670,000	661,300
Tennessee	June 30	113,720	105,417
Texas	Sept. 1	73,000	120,100
Vermont	June 30	18,000	18,000
Virginia	Dec. 31	430,007	441,808
		5,469,949	5,903,341

As shown, there is an increase in the States reporting of over 458,000 tons, or about 8½ per cent. If the ratio of increase of the other States corresponds with those so far reporting, the total tonnage for 1924 will be over 7,000,000 tons.

Any comparison between last year's tonnage and that of any previous year is misleading on account of the higher-grade goods sold in every part of the country in 1924. The campaign for higher analyses is now bearing fruit, and if it were possible to report the plant-food units for the two years, the increase in 1924 over the previous year would be at least 25 per cent instead of one-third of that amount.

Some of the State reports do analyze the sales as to plant-food content, but the 1924 reports will not be issued for several months. Some of the 1923 reports showed notable progress in this line, although that was the first year of the movement for the higher-grade goods. In Indiana, for example, 195,702 tons of fertilizer were sold in 1923, while in 1920 the sales were 230,184 tons. But the 1923 fertilizer contained 2,238 tons more plant food than that sold in the former year. Similar facts were revealed in other reports.

The 1924 figures indicate plainly that the fertilizer industry is on the upgrade. The latest advices from the South warrant a prediction that an even larger increase will be recorded for 1925.

RESPONDENT'S EXHIBIT No. 157

General investigation of rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket No. 16295.

Statement of the rates on fertilizer, carload, prescribed by the Alabama Public Service Commission in Docket No. 4136 of May 20, 1924, for application in connection with following lines: A. G. S. R. R., A. B. & A. Ry., A. C. L. R. R., B. S. R. R., C. of Ga., Ry., L. & N. R. R., M. & O. R. R., N. C. & St. L. Ry., N. A. Ry, St. L. S. F. Ry., S. A. L. Ry., Sou. Ry., W. Ry. of Ala.

Distance	Single line	Joint line
5 miles and under	90	
10 miles and over 5	90	120
15 miles and over 10	100	130
20 miles and over 15	110	140
25 miles and over 20	120	150
30 miles and over 25	122	155
35 miles and over 30	130	160
40 miles and over 35	135	165
45 miles and over 40	140	170
50 miles and over 45	145	175
55 miles and over 50	150	180
60 miles and over 55	155	185
65 miles and over 60	160	190
70 miles and over 65	165	195
75 miles and over 70	170	200
80 miles and over 75	175	205
85 miles and over 80	180	210
90 miles and over 85	185	215
95 miles and over 90	190	220
100 miles and over 95	195	225
110 miles and over 100	200	235
120 miles and over 110	215	245
130 miles and over 120	225	255
140 miles and over 130	235	265
150 miles and over 140	245	275
160 miles and over 150	255	285
170 miles and over 160	265	295
180 miles and over 170	275	305
190 miles and over 180	285	315
200 miles and over 190	295	325
210 miles and over 200	305	335
220 miles and over 210	315	345
230 miles and over 220	325	355
240 miles and over 230	335	365
250 miles and over 240	345	375
260 miles and over 250	355	385
270 miles and over 260	365	395
280 miles and over 270	375	405
290 miles and over 280	385	415
300 miles and over 290	395	425

Statement of the rates on fertilizer, carload, prescribed by the Alabama Public Service Commission in Docket No. 4136 of May 26, 1924, etc.—Continued

Distance	Single line	Joint line
360 miles and over 340	405	415
380 miles and over 360	415	425
400 miles and over 380	425	435
420 miles and over 400	435	445
440 miles and over 420	445	455
460 miles and over 440	455	465
480 miles and over 460	465	475
500 miles and over 480	475	485
520 miles and over 500	485	495

L. & N. R. R. Traffic Department,
L. & N. R. R. Traffic Department, *March 27, 1925.* T. E. H.

Respondent's Exhibit No. 158

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket No. 16295.

Statement of the rates on fertilizer, carload, (a) on basis of Alabama scale in effect prior to July 25, 1924 (effective date of order of Alabama Public Service Commission in Docket 4136 (b) on basis of Alabama lines proposed scale submitted in A. P. S. C. Docket 4136 (c) on basis of third Royster Scale (50 I. C. C. 34) (d) on basis of Alabama prescribed scale in A. P. S. C. Docket No. 4136

(Single-line scale)

Miles	Alabama scale in effect prior to July 25, 1924	Alabama lines proposed scale A. P. S. C. Docket 4136	Third Royster scale	Alabama prescribed scale (present scale A. P. S. C. Docket 4136
5	60	60	60	60
10	102	105	102	90
15	115	120	124	110
20	115	135	135	110
25	126	144	147	120
30	126	153	158	125
35	135	162	158	130
40	135	171	169	135

***Statement of the rates on fertilizer, carload, (a) on basis of Alabama scale in effect prior to July 25, 1924, etc.*—Continued**

Miles	Alabama scale in effect prior to July 25, 1924	Alabama lines proposed scale A. P. S. C. Docket 4136	Third Royster scale	Alabama prescribed scale (present scale) A. P. S. C. Docket 4136
45	147	180	180	140
50	150	180	180	145
55	156	198	192	150
60	160	207	203	155
65	165	216	203	160
70	160	216	214	165
75	180	225	214	170
80	192	225	225	175
85	200	234	237	180
90	205	234	237	185
95	214	243	248	190
100	214	243	250	195
110	225	252	250	205
120	237	261	270	215
130	250	270	270	225
140	270	270	282	235
150	282	288	293	245
160	282	297	311	255
170	297	306	315	265
180	306	315	327	275
190	309	324	327	285
200	315	333	338	295
210	315	342	348	305
220	327	351	360	315
230	339	360	360	325
240	339	360	372	335
250	349	370	372	345
260	349	387	383	355
270	360	405	393	365
280	360	405	394	365
290	372	414	405	375
300	383	414	405	375
310	394	426	426	385
320	405	426	426	395
330	417	441	426	394
340	426	441	426	395
350	426	452	450	405
360	426	452	450	405
370	426	468	462	415
380	462	468	462	415
390	462	462	484	425
400	462	462	484	425
410	473	483	484	425
420	473	483	493	435
430	473	500	507	445
440	484	500	507	445

(a) A. & N. R. R. Tariffs Department, April 30, 1925. T. F. H.

RESPONDENT'S EXHIBIT No. 164

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket 16295.

Statement showing local scale rates on fertilizer of southeastern lines shown compared with the single-line Alabama and third Royster scales (50 I. C. C. 24)

Miles	A. C. L. R. R.		A. B. & A. Ry., note 3	A. G. S. R. R., note 4	C. of Ga. Ry.			C. N. O. & T. P. Ry., note 5	S. A. L. Ry., note 9	L. & N. R. R., note 10	Southern Ry., note 11	A. & W. P. Ry., Ga. R. R., note 12	Prescribed by A. P. S. C. in Docket 4196	Third Royster scale
	Note 1	Note 2			Note 5	Note 6	Note 7							
5	102	147	102	102	102	66	157	90	113	90	66	66	80	90
10	113	147	124	102	113	102	157	90	113	90	102	102	90	102
15	124	147	135	113	124	113	180	102	147	113	113	113	100	124
20	147	147	147	147	147	113	180	102	147	147	113	113	110	135
25	158	180	158	158	158	124	214	113	169	147	124	124	120	147
30	169	180	169	158	169	124	214	113	169	169	124	124	125	158
35	180	180	180	158	180	135	225	147	180	169	135	135	130	158
40	192	203	192	169	192	135	225	147	180	169	135	135	135	169
45	203	214	203	180	203	147	237	169	203	203	147	135	140	180
50	203	214	203	180	203	158	237	169	203	203	158	158	145	180
55	214	225	214	192	214	158	259	203	214	203	158	158	150	192
60	214	225	214	203	214	169	259	203	214	203	169	158	155	203
65	225	225	225	203	214	169	259	225	225	203	169	169	160	203
70	225	237	237	214	225	180	259	225	225	225	180	180	165	214
75	237	237	237	214	237	180	282	225	237	225	180	180	170	214
80	237	237	248	225	237	192	282	225	237	225	192	192	175	225
85	237	237	259	237	237	203	282	259	259	225	203	203	180	237
90	248	248	259	237	248	203	282	259	259	259	203	203	185	237
95	248	248	270	248	248	214	293	259	259	259	214	214	190	248
100	259	259	270	259	259	214	293	259	259	259	214	214	195	259
110	259	259	282	270	259	225	304	259	270	259	225	225	205	259
120	270	270	293	282	270	237	315	259	270	259	237	237	215	270
130	282	282	293	293	270	259	315	259	293	259	259	259	225	270
140	282	282	304	304	282	270	327	259	293	259	270	270	235	282
150	282	282	315	315	282	282	338	259	304	259	282	282	245	293
160	293	293	315	315	293	282	349	259	315	259	282	282	255	315
170	315	315	327	315	315	293	360	259	315	259	293	293	265	315
175	327	327	327	327	315	304	372	270	327	259	304	304	275	327
180	327	327	327	327	315	304	372	270	327	259	304	304	275	327
190	327	327	338	338	327	304	372	270	327	282	304	304	285	327
200			349	349	327	315	383	282		282	315	315	295	338
205			349	349	338	315	383	293		315	315	315	305	349
210			349	349	338	315	383	293		315	315	315	305	349

Statement showing local scale rules on fertilizer of southeastern lines shown compared with the single-line Alabama and third Royster scales (59 I. C. C. 34)—Continued

Miles	A. C. L. R. R.		A. B. & A. Ry., note 3	A. G. S. R. R., note 4	C. of Ga. Ry.			C. N. O. & T. P. Ry.—note 6	S. A. L. Ry., note 9	L. & N. R. R., note 10	Southern Ry., note 11	A. & W. P. Ry., Ga. R. R., note 12	Proportion by A. P. S. C. in Docket 4326	Third Royster scale
	Note 1	Note 2			Note 5	Note 6	Note 7							
220			360	340	340	327	304	293		313	327		313	340
225			372	340	340	336	405	295		327	336		336	360
230			372	340	340	336	405	295		336	336		321	360
235			372	340	360	336	417	304		336	336		333	372
240			372	340	360	336	417	304		336	336		333	372
245			383	340	372	349	429	304		336	349		341	372
250			383	340	372	349	429	315		336	349		341	372
260			393	340	372	349	429	315		349	349		353	383
270			394	340	383	360	429	315		349	360		353	383
275			394	340	383	360	429	315		349	360		365	394
280			394	340	394	372	429	327		349	360		365	394
290			405	340	405	383	429	327		349	372		373	405
300			417	340	405	383	429	327		349	383		373	405
305			429		417	394	444	327		349	396		385	429
310			429		417	394	444	338		372	396		385	429
320			429		429	405	444	338		372	396		385	429
325			429		429	417	444	349		372	417		385	429
330			429		429	417	444	349		383	417		385	429
340			429		429	429	444	349		383	429		385	429
350			429		429	429	444			383	429		385	429
360			462		462	429	457			394	429		385	429
370			462		462	429	457			394	429		385	429
375			473		473	462	457			394	462		415	462
380			484		473	462	469			394	462		415	462
390			484		484	462	469			394	462		415	462
400			484		484	462	469			394	462		415	462
410			495			473	469			405	473		415	462
420			495			473	469			405	473		415	462
430			507			473	469			405	473		415	462
440			516			484	469			405	484		415	462
450			516			484	469			405	484		415	462
460			529			484	469			405	484		415	462
470						484	469			416	484		415	462
480						484	469			416	484		415	462
490														
500														
510														
520														

NOTE 1.—Applicable on traffic between A. C. L. R. R. stations in Alabama.

NOTE 2.—Applicable between A. C. L. R. R. stations in Alabama and A. C. L. R. R. stations in Georgia (Bainbridge, Ga., and West).

NOTE 3.—Applicable from stations in Alabama to stations in Georgia, from stations in Georgia to stations in Alabama.

NOTE 4.—Applicable only on interstate traffic between points on the A. G. S. R. R.

NOTE 5.—Applicable locally between Birmingham, Childersburg, Sylacauga, Opelika, Montgomery, Union Springs, Eufaula, Columbia, Dothan, Sampson, Lockhard, Paxton, and Florida, Ala., and Columbus, Ga., and stations in Alabama.

NOTE 6.—Applicable between all stations in Georgia between stations in Georgia and Columbia and Eufaula, Ala., and between Columbia, Ala., and Eufaula, Ala.

NOTE 7.—Applicable between Columbus, Ga., Eufaula, Ala., and Columbia, Ala., and Central of Georgia stations in Alabama, Florida, Georgia, and Tennessee.

NOTE 8.—Applicable between all stations on the C. N. O. & T. P. Ry.

NOTE 9.—Applicable between S. A. L. Ry. stations, on Atlanta, Birmingham and Savannah division in Alabama, Georgia, North and South Carolina.

NOTE 10.—Applicable between points south of Ohio River (except Virginia intrastate and P. & A. division traffic).

NOTE 11.—Applicable on interstate traffic between points in Georgia.

NOTE 12.—Applicable on interstate traffic between points on A. & W. P. R. R. and between points on the Georgia R. R.

Tariff authorities.—A. C. L. R. R. Alabama Local No. 2, I. C. C. B-2096; A. C. L. R. R. Alabama-Georgia Interstate No. 9, I. C. C. B-2097; A. B. & A. Ry. Tariff No. 57-C, I. C. C. 377; A. G. S. R. R. Local No. 1211-D, I. C. C. 1580; Central of Georgia Mileage No. 3, I. C. C. 2417; Central of Georgia Interstate Mileage No. 3, I. C. C. 2413; Central of Georgia Georgia Mileage No. 3, I. C. C. 2428; C. N. O. & T. P. Ry. Local 1209-D, I. C. C. 4560; S. A. L. Ry. Interstate Local No. 3, I. C. C. A-6916; Southern Ry. Georgia Local No. 1, I. C. C. A-9879; A. & W. P. R. R. Tariff 1565-C, I. C. C. A-44.

L. & N. R. R. TRAFFIC DEPARTMENT, *April 30, 1925.* C. T. M.

Respondent's Exhibit No. 170

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket No. 16295.

Statement of the rates on fertilizer, carload, and on basis of third Royster scale (50 I. C. C. 34) from Decatur, Ala., to Southern Ry. agency stations Gurley, Ala., to Stevenson, Ala., inclusive, compared with the rates from Chattanooga to the same stations

From Decatur, Ala., to—	Miles	Present rate	Third Royster scale	From Chattanooga, Tenn., to—	Miles	Present rate	Third Royster scale
Southern Ry. stations				*Southern Ry. stations*			
Gurley, Ala.	41	140	180	Stevenson, Ala.	39	180	189
Jacobs Spur, Ala.	43	140	180	Cedar Grove, Ala.	42	180	189
Paint Rock, Ala.	45	140	180	Fackler, Ala.	45	180	189
Paint Rock Bridge	48	145	180	Hollywood, Ala.	51	210	192
Woodville, Ala.	50	145	180	Scottsboro, Ala.	56	210	202
Stevens Gap, Ala.	54	180	192	Larkinsville, Ala.	62	210	202
Lim Rock, Ala.	56	155	202	Lim Rock, Ala.	66	210	214
Larkinsville, Ala.	60	155	202	Stevens Gap, Ala.	68	220	214
Scottsboro, Ala.	66	165	214	Woodville, Ala.	72	220	214
Hollywood, Ala.	71	170	214	Paint Rock Bridge	74	220	214
Fackler, Ala.	77	170	.....	Paint Rock, Ala.	77	220	225
Cedar Grove, Ala.	80	175	225	Jacobs Spur, Ala.	79	230	225
Stevenson, Ala.	83	180	237	Gurley, Ala.	81	230	237

Tariff authorities.—Agent Glenn's I. C. C. A-478, Southern Ry. I. C. C. A-9406.

L. & N. R. R. Traffic Department, *April 10, 1931.* W. E. H.

RESPONDENT'S EXHIBIT No. 173

General investigation of rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket 16295.

Statement showing the present rates on fertilizer, carload, also on basis of Third Royster Scale (50 I. C. C. 34) from Birmingham, Ala., to Atlanta, Ga., and intermediate agency stations on the Southern Ry., compared with similar rates from Atlanta, Ga., to Birmingham, Ala., and intermediate agency stations on the Southern Ry.

From Birmingham, Ala., to—	Miles	Present rate	Third Royster scale	From Atlanta, Ga., to—	Miles	Present rate	Third Royster scale
Southern Ry. stations				*Southern Ry. stations*			
Avondale, Ala	2	80	90	Chattahoochee, Ga	8	102	102
Woodlawn, Ala	3	80	90	Mableton, Ga	15	113	124
Irondale, Ala	6	90	102	Austell, Ga	18	113	125
Leeds, Ala	18	110	135	Lithia Springs, Ga	21	113	147
Brompton, Ala	23	120	147	Douglasville, Ga	27	124	158
Eden, Ala	33	130	158	Winston, Ga	32	124	158
Pell City, Ala	35	130	158	Villa Rica, Ga	36	135	169
Riverside, Ala	40	135	169	Temple, Ga	44	147	180
Lincoln, Ala	45	140	180	Bremen, Ga	53	158	192
Eastaboga, Ala	51	150	192	Waco, Ga	56	158	203
Bynum, Ala	55	150	192	Tallapoosa, Ga	63	180	203
Anniston, Ala	62	160	203	Muscadine, Ala	70	225	214
De Armanville, Ala	71	170	214	Fruit Hurst, Ala	73	237	214
Choccoloco, Ala	74	170	214	Edwardsville, Ala	78	237	225
Iron City, Ala	77	175	225	Heflin, Ala	85	239	237
Heflin, Ala	82	180	237	Iron City, Ala	90	239	237
Edwardsville, Ala	86	185	237	Choccoloco, Ala	93	239	248
Fruit Hurst, Ala	94	190	248	De Armanville, Ala	96	239	250
Musoadine, Ala	97	195	250	Anniston, Ala	104	263	250
Tallapoosa, Ga	104	202	259	Bynum, Ala	112	270	270
Waco, Ga	111	215	270	Eastaboga, Ala	116	282	270
Bremen, Ga	114	215	270	Lincoln	123	282	270
Temple, Ga	123	215	270	Riverside, Ala	127	282	270
Villa Rica, Ga	139	264	270	Pell City, Ala	132	286	282
Winston, Ga	135	264	282	Eden, Ala	134	286	282
Douglasville, Ga	140	268	282	Brompton, Ala	144	286	293
Lithia Springs, Ga	146	268	293	Leeds, Ala	149	286	293
Austell, Ga	149	268	293	Irondale, Ala	161	214	315
Mableton, Ga	152	282	315	Woodlawn, Ala	164	214	315
Chattahoochee, Ga	159	214	315	Avondale, Ala	165	214	315
Atlanta, Ga	167	214	315	Birmingham, Ala	167	214	315

Tariff authorities.—Southern Ry. I. C. C. Nos. A-9461 and A-9503; Agent J. H. Glenn's I. C. C. No. A-478.

L. & N. TRAFFIC DEPARTMENT, *April 8, 1926.* W. R. H.

RESPONDENT'S EXHIBIT No. 174

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket 16295.

Statement showing the present rates on fertilizer, carload, also on basis of third Rogster scale (50 I. C. C. 34) from Montgomery, Ala., to Richland, Ga., and intermediate agency stations on the Seaboard Air Line Ry., compared with similar rates from Richland, Ga., to Montgomery, Ala., and intermediate agency stations on the Seaboard Air Line Ry.

From Montgomery, Ala., to—	Miles	Present rate	Third Rogster scale	From Richland, Ga., to—	Miles	Present rate	Third Rogster scale
S. A. L. Ry. stations				*S. A. L. Ry. stations*			
Cecil, Ala	20	117	131	Lumpkin, Ga	9	90	102
Chauncy, Ala	23	120	147	Louvale, Ga	16	96	135
Hardaway, Ala	30	123	138	Union, Ga	20	96	135
Fort Davis, Ala	30	135	159	Omaha, Ga	27	110	150
Reba, Ala	43	140	180	Cottonton, Ala	31	214	150
Hannis, Ala	49	145	180	Pitzview, Ala	37	225	165
Hurtsboro, Ala	50	150	200	Rutherford, Ala	47	237	165
Rutherford, Ala	63	160	200	Hurtsboro, Ala	54	240	180
Pitzview, Ala	71	170	214	Hannis, Ala	60	250	200
Cottonton, Ala	76	175	225	Reba, Ala	65	250	200
Omaha, Ga	83	270	237	Fort Davis, Ala	71	270	214
Union, Ga	90	280	237	Hardaway, Ala	80	282	225
Louvale, Ga	96	280	250	Chauncy, Ala	85	280	237
Lumpkin, Ga	102	284	250	Cecil, Ala	90	280	237
Richland, Ga	110	315	250	Montgomery, Ala	110	315	250

Tariff authorities—S. A. L. Ry. I. C. C. Nos. A-6008, A-6013, A-6014, and A-6072.
L. & N. R. R. TRAFFIC DEPARTMENT, *Mar* 8 30, /30. W. D. B.

RESPONDENT'S EXHIBIT No. 175

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket 16295.

Statement showing the present rates on fertilizer, carload, also on basis of third Royster scale (50 I. C. C. 34) from Montgomery, Ala., to Columbus, Ga., and intermediate stations on the Central of Georgia Ry., compared with similar rates from Columbus, Ga., to Montgomery, Ala., and intermediate stations on the Central of Georgia Ry.

From Montgomery, Ala., to—	Miles	Present rate	Third Royster scale	From Columbus, Ga., to—	Miles	Present rate	Third Royster scale
C. of Ga. Ry. stations				*C. of Ga. Ry. stations*			
Keyton, Ala	4	80	90	Girard, Ala	2	102	90
Dingley, Ala	5	80	90	Fontaine, Ala	3	[1]75.2	90
Baruchias, Ala	10	90	102	Kaolin, Ala	4	102	90
Parrys Mill, Ala	12	100	126	Dixieland, Ala	5	102	90
Pike Road, Ala	13	100	126	Brick Yard, Ala	6	113	102
Landon, Ala	18	110	135	Flournoys, Ala	8	113	102
Mathews, Ala	21	120	147	Tickhaw, Ala	9	113	102
Mitchell, Ala	25	120	147	Fort Mitchell, Ala	10	113	102
Fitzpatrick, Ala	26	125	138	Nuckols, Ala	13	124	126
Thompson, Ala	33	130	138	Lato, Ala	15	124	124
Union Springs, Ala	40	132	169	Seale, Ala	20	147	135
Chunnennggee, Ala	45	140	180	Dudleys, Ala	22	158	147
Peachburg, Ala	47	145	180	Colbert, Ala	24	169	147
Suspension, Ala	49	145	180	Hatchechubbee, Ala	27	169	156
Garryton, Ala	55	150	192	Wendo, Ala	30	169	156
Tuno, Ala	57	155	203	Hurtsboro, Ala	33	180	156
Hurtsboro, Ala	60	155	203	Tuno, Ala	36	192	169
Wendo, Ala	65	169	203	Garreyton, Ala	40	203	169
Hatchechubbee, Ala	69	165	214	Suspension, Ala	46	203	180
Colbert, Ala	71	170	214	Peachburg, Ala	49	214	180
Dudleys, Ala	73	170	214	Chunnennggee, Ala	50	214	180
Seale, Ala	75	170	214	Union Springs, Ala	55	214	192
Lato, Ala	90	175	225	Thompson, Ala	62	214	203
Nuckols, Ala	92	180	237	Fitzpatrick, Ala	67	225	214
Fort Mitchell, Ala	95	190	237	Mitchell, Ala	70	225	214
Tickhaw, Ala	98	185	237	Mathews, Ala	75	237	214
Flournoys, Ala	86	185	237	London, Ala	77	237	225
Brick Yard, Ala	89	185	237	Pike Road, Ala	80	237	225
Dixieland, Ala	90	185	237	Parry's Mill, Ala	84	237	237
Kaolin, Ala	91	190	249	Baruchias, Ala	86	249	237
Fontaine, Ala	92	190	249	Dingley, Ala	95	249	249
Girard, Ala	93	190	249	Keyton, Ala	92	214	249
Columbus, Ga	95	214	249	Montgomery, Ala	95	214	249

[1] Rate published as $7.53 per car of 80,000 pounds excess at proportionate rate and for the purpose of this statement reduced to per ton basis.

Tariff authorities—C. of Ga. Ry. I. C. C. No. 2490. Agent J. H. Glenn's I. C. C. No. A-478.

L. & N. R. R. TRAFFIC DEPARTMENT, *March 30, 1926.* T. E. H. W. E. G. W. D. B.

Respondent's Exhibit No. 176

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket 16295.

Statement showing the present rates on fertilizer, carload, also on basis of third Rogster scale (38 I. C. C. 34) from Decatur, Ala., to Corinth, Miss., and intermediate stations on the Southern Ry. compared with similar rates from Corinth, Miss., to Decatur, Ala., and intermediate stations on the Southern Ry.

From Decatur, Ala., to—	Miles	Present rate	Third Rogster scale	From Corinth, Miss., to—	Miles	Present rate	Third Rogster scale
Southern Ry. stations				*Southern Ry. stations*			
Trinity, Ala	6	90	102	Glenn, Miss	5	102	102
Hillsboro, Ala	13	100	134	Cuba, Miss	11	102	134
Wheeler, Ala	14	110	134	Burnsville, Miss	14	102	134
Courtland, Ala	20	110	135	Walker, Miss	16	102	135
Town Creek, Ala	27	120	147	Hazard, Miss	19	102	135
Leighton, Ala	32	130	156	Iuka, Miss	22	102	147
Sheffield, Ala	45	140	180	Gravel Siding, Miss	25	102	147
Pride, Ala	53	150	192	Oldham, Miss	26	102	156
Buxton, Ala	59	155	205	Morrison, Miss	27	102	156
Cherokee, Ala	62	160	205	Riverton Junction, Ala	30	160	156
Chisca, Ala	64	160	205	Margerum, Ala	30	160	156
Margerum, Ala	66	165	214	Chisca, Ala	34	160	156
Riverton Junction, Ala	68	165	214	Cherokee, Ala	36	160	169
Morrison, Miss	71	220	214	Buxton, Ala	40	160	169
Oldham, Miss	72	220	214	Pride, Ala	43	180	180
Gravel Siding, Miss	73	220	214	Sheffield, Ala	53	210	192
Iuka, Miss	76	220	225	Leighton, Ala	63	210	205
Hazard, Miss	80	220	225	Town Creek, Ala	73	220	214
Walker, Miss	82	220	237	Courtland, Ala	78	220	225
Burnsville, Miss	84	220	237	Wheeler, Ala	82	220	237
Cuba, Miss	87	220	237	Hillsboro, Ala	84	220	237
Glenn, Miss	90	220	237	Trinity, Ala	97	220	248
Corinth, Miss	96	220	259	Decatur, Ala	96	220	259

Tariff authorities.—Southern Ry. I. C. C. Nos. A-6440 and A-6666. Agent J. H. Glenn's I. C. C. No. A-478.

L. & N. R. R. Traffic Department, *March 30, 1931.* W. K. G. W. D. R.

RESPONDENT'S EXHIBIT No. 177

General investigation rates on fertilizer and fertilizer material between southern points. I. C. C. Docket No. 16295.

Statement showing the present rates on fertilizer, carload, also on basis of third Royster scale (50 I. C. C. 34) from Birmingham, Ala., to Tupelo, Miss., and intermediate agency stations on the St. Louis-San Francisco Ry., compared with similar rates from Tupelo, Miss., to Birmingham, Ala., and intermediate agency stations on the St. Louis-San Francisco Ry.

From Birmingham, Ala., to St. L.-S. F. Ry. stations	Miles	Rate	Third Royster scale	From Tupelo, Miss., to St. L.-S. F. Ry. stations	Miles	Rate	Third Royster scale
Adamsville, Ala	13	100	124	Plantersville, Miss	4	90	90
Palos, Ala	20	110	135	Nettleton, Miss	12	100	124
Quinton, Ala	22	120	147	Amory, Miss	23	100	147
Dora, Ala	27	125	156	Quincy, Miss	32	100	156
Samaset, Ala	29	125	156	Greenwood Springs, Miss	37	100	169
Cordova, Ala	33	130	156	Guitman, Miss	41	100	180
Jasper, Ala	41	140	180	Sulligent, Ala	47	210	180
Hillard, Ala	48	145	180	Crews, Ala	50	210	180
Townley, Ala	52	150	192	Beaverton, Ala	54	210	192
Carbon Hill, Ala	60	155	203	Guin, Ala	60	210	203
Eldridge, Ala	66	160	214	Winfield, Ala	67	220	214
Glen Allen, Ala	75	170	214	Glen Allen, Ala	72	220	214
Winfield, Ala	79	175	225	Eldridge, Ala	81	300	237
Guin, Ala	86	183	237	Carbon Hill, Ala	87	300	237
Beaverton, Ala	93	190	248	Townley, Ala	95	300	248
Crews, Ala	97	195	259	Hillard, Ala	99	300	259
Sulligent, Ala	100	195	259	Jasper, Ala	108	300	259
Guitman, Miss	106	200	259	Cordova, Ala	113	300	270
Greenwood Springs, Miss	110	200	259	Samaset, Ala	118	300	270
Quincy, Miss	114	200	270	Dora, Ala	119	300	270
Amory, Miss	124	220	270	Quinton, Ala	124	320	270
Nettleton, Miss	135	220	282	Palos, Ala	127	320	270
Plantersville, Miss	143	220	282	Adamsville, Ala	134	320	282
Tupelo, Miss	147	225	293	Birmingham, Ala	147	225	293

Tariff authorities.—St. L.-S. F. Ry. I. C. C. Nos. 8305 and 8410; St. L.-S. F. Ry. Tariff No. 85-I (Interstate); Agent J. H. Glenn's I. C. C. No. A-478.

L. & N. R. R. Co. TRAFFIC DEPARTMENT, *March 18, 1931.* W. D. B.

RESPONDENT'S EXHIBIT No. 178

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket 16295.

Statement of the rates on fertilizer, carload, from Mobile, Ala., v. Pensacola, Fla., to L. & N. R. R. stations Flomaton to Montgomery, Ala., inclusive (a) in effect prior to July 25, 1924 (effective date of Alabama Public Service Commission order in Docket 4136) (b) present rates and (c) on basis of Third Rovster scale (50 I. C. C. 34)

From ———	Distance		Rate prior to July 25, 1924		Present rates		Third Rovster scale	
To—	Mobile	Pensacola	Mobile	Pensacola	Mobile	Pensacola	Mobile	Pensacola
L. & N. R. R. stations:								
Flomaton, Ala.	50	43	160	140	155	140	200	180
Pollard, Ala.	65	49	160	160	160	160	200	180
Barrington, Ala.	69	52	160	160	165	160	214	192
Kooge, Ala.	69	52	160	160	165	160	214	192
Beverton, Ala.	73	57	160	160	170	160	214	200
Kirkland, Ala.	80	64	192	192	175	192	225	200
Castleberry, Ala.	87	71	200	200	195	200	257	214
Sparta, Ala.	93	77	214	214	200	214	268	225
Evergreen, Ala.	96	82	214	214	195	214	250	257
Owassa, Ala.	102	88	225	225	205	225	250	257
Wilcox, Ala.	108	90	225	225	205	225	250	257
Garland, Ala.	112	96	257	257	215	257	270	250
Dunbaun, Ala.	116	100	257	257	215	257	270	250
Georgiana, Ala.	119	103	257	257	215	257	270	250
Chapman, Ala.	122	106	250	250	225	250	270	250
Rolling, Ala.	126	110	250	250	225	250	270	250
Wald, Ala.	129	113	250	250	235	250	270	270
Greenville, Ala.	134	118	270	250	225	250	282	270
Searcy, Ala.	141	125	282	250	245	250	295	270
Fort Deposit, Ala.	148	130	282	250	245	250	295	270
Calhoun, Ala.	151	135	282	250	255	250	313	282
Letohatchee, Ala.	159	142	282	250	255	250	313	295
Tyron, Ala.	164	147	295	250	265	250	313	295
Chesterfield, Ala.	164	148	295	250	265	250	313	295
McGehee, Ala.	169	153	295	250	265	250	313	313
Pauldners, Ala.	173	157	304	250	275	250	327	313
Montgomery, Ala.	178	162	304	250	275	250	327	313

Tariff authorities—L. & N. R. R. G. F. O. 10-B (Intrastate); L. & N. R. R. I. C. C. A-13210, Agent Gibson's I. C. C. A-478 (Intrastate); Agent F. L. Spainhour's I. C. C. 706.

L. & N. R. R. TRAFFIC DEPARTMENT, April 7, 1925. T. E. H.

RESPONDENT'S EXHIBIT No. 180

General investigation rates on fertilizer and fertilizer materials between southern points. I. C. C. Docket No. 16295.

Statement showing the present rates on fertilizer, carload, also on basis of third Royster scale (50 I. C. C. 34) from Eufaula, Ala., compared with similar rates from Columbus, Ga., to Montgomery, Ala., and intermediate stations on the Central of Georgia Ry.

From Eufaula, Ala., to Central of Georgia Ry. stations	Miles	Present rate	Third Royster scale	From Columbus, Ga., to Central of Georgia Ry. stations	Miles	Present rate	Third Royster scale
Lugo, Ala	7	90	102	Girard, Ala	2	102	90
Batesville, Ala	14	100	124	Fontaine, Ala	3	[1] 75.2	90
Comer, Ala	18	110	135	Kaolin, Ala	4	102	90
Midway, Ala	27	125	156	Dixieland, Ala	5	112	90
Three Notch, Ala	31	130	156	Brickyard, Ala	6	113	102
Cedar Plains, Ala	35	130	156	Flournoys, Ala	8	113	102
Union Springs, Ala	39	135	169	Tickfaw, Ala	9	113	102
Thompson, Ala	46	145	180	Fort Mitchell, Ala	10	113	102
Fitzpatrick, Ala	51	150	192	Nuckols, Ala	13	124	124
Mitchell, Ala	55	150	192	Lato, Ala	15	124	124
Mathews, Ala	59	155	203	Seale, Ala	20	147	135
London, Ala	61	160	203	Dudleys, Ala	22	156	147
Pike Road, Ala	65	160	203	Colbert, Ala	26	169	147
Perrys Mill, Ala	68	165	214	Hatchechubbee, Ala	27	169	156
Barachias, Ala	70	165	214	Wendc, Ala	30	169	156
Dingley, Ala	76	175	225	Hurtsboro, Ala	35	180	156
Keyton, Ala	77	175	225	Tenre, Ala	38	192	169
Montgomery, Ala	80	175	225	Guerryton, Ala	40	203	169
				Suspension, Ala	46	203	180
				Peachburg, Ala	49	214	180
				Chunnenuggee, Ala	50	214	180
				Union Springs, Ala	55	214	192
				Thompson, Ala	62	214	203
				Fitzpatrick, Ala	67	225	214
				Mitchell, Ala	70	225	214
				Mathews, Ala	75	237	214
				London, Ala	77	237	225
				Pike Road, Ala	80	237	225
				Perrys Mill, Ala	84	237	237
				Barachias, Ala	86	248	237
				Dingley, Ala	92	248	248
				Keyton, Ala	92	214	248
				Montgomery, Ala	95	214	248

[1] Rate published as $7.52 per car of 20,000 pounds carmen at proportionate rate and for purpose of this statement reduced to per ton basis.

Tariff authorities.—Cent. of Ga. Ry. I. C. C. No. 2499; Agent J. H. Glenn's I. C. C. No. 478.

LOUISVILLE & NASHVILLE R. R. CO., TRAFFIC DEPARTMENT, *March 9, 1931.*
T. E. H. W. E. G. W. D. B.

Exhibit No. 212.

I. C. C. Docket No. 16295. Witness Ketner.

Statement showing present and proposed local mileage (single-line) rates on fertilizer and fertilizer materials between points in Florida, in cents per ton of 2,000 pounds.

Distance, in miles	Present		Proposed	Distance, in miles	Present		Proposed
	Fertilizer, note 1	Fertilizer material, note 2	Fertilizer (carloads), minimum weight, 30,000 pounds		Fertilizer, note 1	Fertilizer material, note 2	Fertilizer (carloads), minimum weight, 30,000 pounds
5	147	110	60	170	313	236	311
10	147	110	102	180	313	236	327
15	139	119	124	190	313	236	327
20	139	119	133	200	313	236	338
25	139	127	147	210	313	236	349
30	149	127	156	220	313	236	349
35	149	133	159	230	313	236	360
40	180	133	169	240	313	236	371
45	205	152	180	250	327	243	372
50	205	152	182	260	327	243	383
55	214	161	192	270	327	243	393
60	214	161	203	280	327	243	394
65	220	166	205	290	327	243	405
70	220	169	214	300	327	243	405
75	237	179	214	320	327	243	428
80	237	179	225	340	336	254	439
85	248	186	237	360	336	254	450
90	249	186	237	380	336	254	462
95	259	194	248	400	349	262	484
100	270	194	259	420	360	270	495
110	270	203	259	440	360	270	507
120	279	203	270	460	372	279	518
130	282	212	270	480	384	288	518
140	293	220	282	500	384	288	540
150	293	220	293	520	384	288	552
160	304	228	313	540	384	288	563

Note 1.—Fertilizer rated class "M" in Florida classification.

Note 2.—Fertilizer materials rated 75 per cent of class "M" Florida classification minimum over 30,000 pounds.

S. A. L. Ry., I. C. C. No. A-7925.

Norfolk, Va., *April 15, 1925.*

CARRIERS' EXHIBIT No. 243

I. C. C. Docket No. 16295. Witness, J. F. Dalton

NORFOLK SOUTHERN RAILROAD COMPANY

Statement showing the present rates on fertilizer, carload, of the Norfolk Southern R. R. for single-line application, in cents per ton 2,000 pounds

Distances	Between points in North Carolina intrastate	Between points in Virginia intrastate	Interstate between points in North Carolina or Virginia, or vice versa	Royster scale
5 miles	90	102	135	[1] 90
10 miles	113	124	135	[1] 102
15 miles	135	136	138	[1] 124
20 miles	147	169	169	[1] 135
25 miles	169	214	180	[1] 147
30 miles	169	214	203	[1] 158
35 miles	180	214	214	158
40 miles	180	214	214	169
45 miles	192	214	214	180
50 miles	203	214	214	180
55 miles	214	214	214	192
60 miles	214	214	225	203
65 miles	225	214	237	203
70 miles	225	214	237	214
75 miles	237	214	248	214
80 miles	237	214	259	225
85 miles	248	214	259	237
90 miles	248	214	270	237
95 miles	259	214	270	248
100 miles	259	214	282	259
110 miles	259	214	293	259
120 miles	270	214	315	270
130 miles	270	214	315	270
140 miles	293	214	327	282
150 miles	293	214	327	293
160 miles	315	214	338	315
170 miles	315	214	349	315
180 miles	327	214	349	327
190 miles	327	214	360	327
200 miles	338	214	372	338
210 miles	349	214	372	349
220 miles	349	214	383	349
230 miles	360	214	383	360
240 miles	372	214	394	372
250 miles	372	214	405	372
260 miles	383	214	417	383
270 miles	383	214	417	383
280 miles	394	214	428	394

[1] Rates 50 miles and under are the proposed rates of other southern carriers.

***Statement showing the present rates on fertilizer, carload, of the Norfolk Southern R. R. for single-line application, in cents per ton 2,000 pounds*—Continued**

Distance	Between points in North Carolina intrastate	Between points in Virginia intrastate	Interstate between points in North Carolina or Virginia, or vice versa	Bayster scale
260 miles	405	214	428	405
265 miles	405	214	428	405
270 miles	426	214	430	426
275 miles	430	214	462	430
280 miles	430	214	473	430
285 miles	462	214	473	462
290 miles	464	214	473	464
295 miles	465	214	473	465
300 miles	507	214	473	507
305 miles	516	214	473	516
310 miles	540	214	473	540
315 miles	532	214	473	532
320 miles	532	214	473	532
325 miles	532	214	473	574
330 miles	532	214	473	597
335 miles	532	214	473	606

Tariff authorities.—North Carolina Local Tariff No. 8, R. I. 100; Virginia Intrastate Tariff No. 3, R. I. 30; Interstate Local Tariff No. 5, I. C. C. A-200. 50 ICC. 34.

Exhibit No. 285

I. C. C. Docket No. 16295. Witness J. A. Streyer

Financial statement for railroads shown calendar year 1924

[Figures in boldface indicate deficits]

Road	Average miles main line operated	Total railway operating revenue	Total railway operating expense	Net revenue from railway operations	Railway tax accruals	Uncollectible railway revenue	Railway operating income	Total additions to railway operating income
Aberdeen & Rockfish R. R. Co.	44.9	$199,170.20	$115,859.48	$83,311.72	$5,694.67	.....	$27,217.05	.....
Alabama, Florida & Gulf R. R. Co.	22	31,441.76	20,464.77	4,976.94	2,723.55	.....	7,700.49	.....
Andalusia, Florida & Gulf Ry. Co.	25.5	36,102.46	25,913.26	9,280.12	3,597.95	.....	5,682.17	.....
Atlantic & Yadkin Ry.	160.2	1,153,493.93	913,549.37	236,943.56	27,267.09	873.93	209,009.34	84,229.54
Birmingham & Southeastern Ry. Co.	60.89	256,492.73	209,715.15	47,779.58	4,800.00	.....	42,979.58	.....
Blue Ridge Ry.	44	208,449.05	223,219.47	35,229.58	16,214.97	1,577.00	17,437.51	6,398.34
Buffalo, Union-Carolina R. R.	19.2	94,250.72	68,742.80	15,514.52	2,570.37	.....	12,944.15	.....
Carolina & Northwestern Ry. Co.	123.5	902,510.51	620,909.20	242,950.71	29,449.96	197.25	213,304.09	111.60
Charlotte, Monroe & Columbia R. R.	17.85	27,304.50	20,902.05	3,455.47	2,037.41	34.32	4,437.50	.....
Chesterfield Lancaster R. R. Co.	30.72	95,311.74	93,128.57	2,182.67	5,174.16	16.46	3,007.75	.....
Collins & Glenville R. R. Co.	22	30,374.04	45,495.27	13,979.57	1,998.95	.....	12,980.62	12,980.62
Columbia, Newberry & Laurens R. R. Co.	73	650,438.73	446,477.27	181,961.46	32,959.27	.....	149,002.19	3,032.69
Cumberland Manchester R. R. Co.	25.89	200,656.63	167,656.16	51,180.47	4,673.59	.....	47,112.88	9,902.69
Danville & Western Ry. Co.	82.04	542,141.46	413,094.05	120,047.40	25,232.24	1,280.89	103,533.17	150.60
Dover Southbound R. R. Co.	24.77	96,470.01	83,210.71	3,159.30	2,955.73	3.07	198.46	8,960.16
East Tennessee & Western North Carolina R. R. Co.	66	321,260.92	229,414.05	92,416.99	25,228.27	.....	65,988.62	100.00
East and West Coast Ry.	56.12	116,172.94	105,191.95	9,981.99	19,525.09	77.52	8,621.62	886.00
Elberton & Eastern R. R. Co.	35.51	126,273.71	81,095.15	45,178.56	3,497.42	.....	41,680.64	1,215.97
Fernwood, Columbia & Gulf R. R. Co.	44.14	122,853.00	294,928.00	87,925.00	17,815.00	55.00	70,055.00	.....

Financial statement for railroads shown calendar year 1914—Continued

[Figures in boldface indicate deficits]

Road	Average miles main line operated	Total railway operating revenue	Total railway operating expense	Net revenue from railway operations	Railway tax accruals	Uncollectible railway revenue	Railway operating income	Total additions to railway operating income
Flemingsburg & Northern R. R. Co.	7	$40,598.90	$30,696.61	$9,902.29	$692.30	.....	$9,209.99	.....
Flint River & Northeastern R. R. Co.	28.69	60,645.92	36,370.29	24,275.63	3,595.50	.....	1,680.30	$153.00
Florida Central & Gulf Ry.	23.67	33,399.36	32,986.63	20,677.27	14,676.42	.....	62,261.69	12,025.50
Frankfort & Cincinnati Ry. Co.	46.1	95,725.29	113,919.10	17,194.19	3,580.66	$135.96	20,910.68	.....
Garyville Northern R. R. Co.	35	109,194.70	89,226.84	19,954.05	3,541.19	.....	15,412.67	80.39
Georgia, Ashburn, Sylvester & Camilla Ry.	41.98	114,625.92	93,623.96	21,002.95	4,911.20	.....	20,096.66	23.00
Georgia, Florida & Alabama Ry. Co.	192.66	997,952.14	766,494.36	231,458.18	30,254.29	1,869.77	169,935.12	.....
Georgia Northern Ry. Co.	67.76	349,534.22	254,184.35	94,349.87	16,902.10	.....	77,446.77	111.00
Georgia & Florida Ry.	600.16	1,780,988.66	1,225,692.61	425,196.20	77,994.25	952.32	377,179.70	9,891.26
Gainesville & Northwestern R. R. Co.	37	97,394.73	114,152.76	18,669.68	2,718.11	.....	16,888.14	600.00
Greene County R. R. Co.	19.69	60,777.09	43,615.09	6,161.97	1,934.29	.....	1,934.29	.....
Greenville & Northern Ry. Co.	10	44,320.13	46,484.30	2,064.17	2,189.18	.....	4,674.95	.....
Hampton & Branchville R. R. Co.	24	54,695.62	43,580.30	11,105.43	1,781.60	25.46	9,318.92	.....
High Point, Randleman, Asheboro & Southern R. R.	27.64	144,913.93	120,276.30	20,737.33	5,960.38	137.16	14,640.39	.....
High Point, Thomasville & Denton R. R. Co.	24	62,674.71	64,410.75	19,265.96	1,980.00	.....	17,663.96	.....
Kentucky & Tennessee Ry.	73.08	200,698.31	226,963.70	30,922.61	8,610.45	.....	51,222.16	.....
Lancaster & Chester Ry. Co.	20	200,627.09	146,416.47	60,416.62	9,768.43	.....	50,648.19	.....
Lawndale Ry. & Industrial Co.	11.09	21,208.14	19,614.35	1,633.79	435.92	.....	1,197.87	.....
Live Oak, Perry & Gulf R. R. Co.	109	309,662.32	213,672.38	95,790.94	25,102.61	10.36	70,677.74	23,478.40
Louisville & Wadley R. R. Co.	14	52,917.54	53,207.27	20,710.27	3,827.71	10.86	16,872.69	.....
Macon, Dublin & Savannah R. R. Co.	92.26	718,185.70	554,619.19	163,566.51	26,552.39	177.23	136,855.90	9,068.08
The Marietta & Bloomingsburg R. R. Co.	43.56	95,552.35	64,645.97	31,207.38	5,790.00	.....	25,507.38	.....
Marion, Alma & Southbound R. R. Co.	15.15	23,274.60	20,827.10	2,447.50	975.18	.....	1,472.32	.....
Morgan & Fentress Ry. Co.	15.5	39,526.12	34,573.92	4,954.60	1,326.60	.....	6,103.49	.....

Mobile Shoals, Birmingham & Pensacola Ry.	142.94	208,943.43	150,206.42	61,842.39	24,551.07	1,512.67	107,007.18	58,863.27
The Natchez, Columbia & Mobile R. R. Co.	26.42	183,315.45	208,190.01	24,974.56	5,928.91		38,813.86	6,130.00
Oneida & Western R. R. Co.	30.15	197,112.23	136,296.21	40,676.02	14,396.65		26,277.37	201.86
Pearl River Valley R. R. Co.	25.34	148,411.41	122,121.96	16,289.43	6,279.88		9,909.57	5,023.50
The Pickens R. R. Co.	9.3	29,043.88	24,663.53	4,381.35	910.44		3,470.91	
Raleigh & Charleston R. R. Co.	42.58	125,973.62	110,269.45	15,704.98	5,831.77	1.11	9,872.10	512.40
Savannah & Atlanta Ry.	147.17	1,084,101.72	898,515.48	185,586.24	19,000.00	12,264.92	154,321.32	1,194.12
Savannah & Statesboro Ry. Co.	32.09	81,661.16	75,577.94	6,083.22	4,151.99	98.52	1,832.80	813.81
Sylvania Central Ry. Co.	14.65	39,620.19	35,552.16	4,074.03	1,770.00	5.52	2,298.70	
Tallulah Falls Ry. Co.	57.1	211,772.21	190,487.04	23,285.17	5,613.81	161.75	17,509.61	142.18
Tampa & Gulf Coast R. R. Co.	90.09	1,084,353.77	636,116.85	448,236.92	23,740.63	282.67	424,307.22	3,311.67
Tampa & Jacksonville Ry. Co.	56	101,615.56	87,231.85	14,383.69	8,209.84		6,173.75	
Tampa Northern R. R. Co.	64.26	243,056.00	206,758.50	36,298.50	31,541.13		4,757.37	37,241.76
Tennessee, Kentucky & Northern R. R. Co.	19	88,546.90	65,676.82	23,464.08	4,156.84		19,305.24	
Townsville R. R. Co.	12	14,235.00	10,695.00	3,540.00	720.00		2,820.00	
The Union Point & White Plains R. R. Co.	13.64	47,079.96	25,228.29	21,751.57	1,104.00	39.12	20,608.45	
Wadley Southern Ry. Co.	98.74	119,242.36	131,244.93	12,002.57	13,508.53	162.66	25,673.76	842.80
Ware Shoals R. R. Co.	5	51,399.19	49,388.56	2,010.63	608.39		1,402.24	
Washington & Lincolnton R. R. Co.	20.1	110,445.00	70,982.00	39,463.00	3,672.00	2,619.00	33,772.00	
Wellington & Powelleville R. R. Co.	22	90,434.15	71,167.61	6,782.46	1,476.87		6,216.53	600.00
Wrightsville & Tennille R. R. Co.	103.6	352,722.40	278,651.28	74,051.12	27,426.06	1,631.53	45,033.53	3,910.83
Yadkin R. R. Co.	52.23	358,205.65	255,119.61	98,085.04	9,120.93	90.13	88,873.98	475.73
Total								

Financial statement for railroads shown calendar year 1924

[Figures in bold-face indicate deficits]

Road	Deductions from railway operating income	Net railway operating income	Non-operating income	Gross income	Deductions from gross income	Net income	Total investment
Aberdeen & Rockfish R. R. Co.	$25,343.10	**$1,993.99**	$1,877.45	$3,771.34	$15,529.41	**$11,758.07**	$436,969.40
Alabama, Florida & Gulf R. R. Co.	6,457.60	**14,963.56**			3,334.25	**12,713.61**	147,413.67
Andalusia Florida & Gulf Ry. Co.	5,130.00	2,592.17		7,365.92		**1,962.25**	26,905.49
Atlantic & Yadkin Ry.	240,774.31	**38,966.43**	6,474.24	**30,770.19**	70,745.53	**91,015.72**	2,661,260.19
Birmingham & Southeastern Ry. Co.	35,228.84	17,749.74	343.26	18,366.00	606.05	17,680.05	1,638,112.36
Blue Ridge Ry.	1,913.90	21,931.95	4,653.61	26,585.56	10,995.70	15,970.86	886,260.56
Buffalo, Union-Carolina R. R.	9,224.48	4,719.67	478.00	5,197.27	11,166.02	**5,968.75**	260,343.61
Carolina & Northwestern Ry. Co.	115,162.11	98,153.57	5,307.17	103,460.74	109,518.05	**6,057.31**	6,125,692.36
Charlotte, Monroe & Columbia R. R.	4,182.15	**6,616.71**	601.14	**6,715.57**	4,792.47	**12,011.04**	122,019.51
Chesterfield & Lancaster R. R. Co.	16,057.47	**19,085.22**	972.30	**18,112.92**	22,009.59	**60,191.51**	627,979.36
Collins & Glennville R. R. Co.	8,908.47	4,304.95		4,304.95		4,304.95	53,210.90
Columbia, Newberry & Laurens R. R. Co.	52,304.10	70,411.18	12,460.69	162,374.08	127,039.70	35,353.38	2,316,614.65
Cumberland & Manchester R. R. Co.	7,435.69	49,625.19	15.00	49,640.19	44,084.90	5,555.29	1,494,339.49
Danville & Western Ry. Co.	7,263.19	96,262.58	3,760.45	100,183.03	114,065.61	**14,892.86**	2,334,601.62
Dover & Southbound R. R. Co.	2,296.54	6,047.64	268.75	6,916.39	3,909.00	3,016.39	201,696.22
East Tennessee & Western N. C. R. R. Co.	9,551.98	58,136.74	11,981.82	69,109.38	25,398.81	43,709.71	1,282,940.30
East and West Coast Railway	36,720.37	**45,481.99**	1,600.08	**43,881.91**	66,205.72	**90,086.63**	615,955.36
Elberton & Eastern R. R. Co.	20,481.93	22,414.68	**20,570.97**	3,103.67	42,317.79	**39,217.12**	663,843.16
Fernwood, Columbia & Gulf R. R. Co.	23,122.00	66,933.00	2,378.00	69,311.00	62,977.00	6,434.00	904,825.00
Flemingsburg & Northern R. R. Co.	1,214.50	7,793.62		7,793.62	9,048.09	**1,252.47**	203,688.30
Flint River & Northeastern R. R. Co.	6,612.90	3,415.14	132.48	3,547.62	8,516.64	**5,268.97**	247,637.70
Florida, Central & Gulf Ry.	11,636.78	**43,222.97**	516.35	**41,616.62**	35,932.42	**77,768.04**	784,693.34
Frankfort & Cincinnati Ry. Co.	7,627.19	**20,580.66**	365.55	**20,272.60**	7,698.83	**28,668.23**	273,499.92
Garyville Northern R. R. Co.	11,735.68	3,726.38	128.56	3,995.94	9,180.00	**5,282.06**	167,662.44
Georgia, Ashburn, Sylvester & Camilla Ry.	12,667.94	16,653.72	151.48	16,695.20	1 '80.29	15,494.91	176,363.01

Georgia, Florida & Alabama Ry. Co.		169, 955. 12	10, 019. 94	179, 954. 96	73, 341. 57	106. 613. 39	2, 797, 114. 12
Georgia Northern Ry. Co.	22, 743. 75	84, 814. 02	2, 017. 51	86, 831. 53	22, 115. 00	34, 716. 53	1, 105, 253. 48
Georgia & Florida Ry.	173, 449. 86	215, 621. 10	14, 284. 24	227, 905. 34	857, 861. 77	629, 956. 43	17, 380, 039. 03
Gainsville & Northwestern R. R. Co.	22, 335. 68	88, 986. 69	10, 994. 77	99, 580. 41	32, 870. 30	63, 470. 71	832, 080. 24
Greene County R. R. Co.	5, 721. 81	1, 484. 14	177. 00	1, 307. 14	4, 062. 55	1, 269. 69	151, 552. 98
Greenville & Northern Ry. Co.	5, 253. 18	11, 208. 13	630. 92	10, 672. 21	24, 415. 62	55, 087. 43	1, 239, 204. 36
Hampton & Branchville R. R. Co.	3, 911. 46	3, 407. 46		3, 407. 46	2, 929. 97	477. 49	181, 341. 74
High Point, Randleman, Asheboro & Southern R. R.	19, 144. 72	6, 804. 13	1, 636. 08	5, 867. 45	47, 787. 70	86, 655. 15	732, 698. 15
High Point, Thomasville & Denton R. R. Co.	17, 133. 55	530. 61	2, 458. 38	2, 988. 99	6, 209. 79	3, 179. 80	376, 229. 99
Kentucky & Tennessee Ry.	16, 536. 17	34, 693. 90	4, 921. 94	39, 605. 93	5. 83	39, 600. 10	1, 098, 913. 02
Lancaster & Chester Ry. Co.	16, 651. 20	42, 190. 99	2, 988. 64	45, 095. 63	8, 100. 00	36, 995. 63	708, 665. 23
Lawndale Ry. & Industrial Co.	240. 69	957. 87		957. 87		957. 87	89, 104. 44
Live Oak, Perry & Gulf R. R. Co.	6, 125. 31	90, 030. 83	8, 955. 45	98, 986. 28	39, 376. 39	59, 609. 89	1, 660, 131. 09
Louisville & Wadley R. R. Co.	5, 702. 30	11, 169. 70	2, 041. 48	13, 211. 18		13, 211. 18	111, 940. 80
Macon, Dublin & Savannah R. R. Co.	80, 981. 91	65, 342. 04	4, 719. 39	70, 061. 43	87, 622. 13	17, 560. 50	3, 824, 751. 51
The Marianna & Blountstown R. R. Co.	9, 180. 07	16, 327. 31	11. 46	16, 338. 77	22, 793. 89	6, 455. 12	195, 457. 74
Macon, Atma & Southbound R. R. Co.	2, 508. 00	1, 988. 68		1, 988. 68	3, 221. 88	4, 215. 86	188, 536. 71
Morgan & Pentress Ry. Co.	2, 882. 00	9, 045. 49	484. 90	8, 560. 59	24, 925. 00	33, 485. 59	792, 776. 50
Muscle Shoals, Birmingham & Pensacola Ry.	46, 110. 42	94, 654. 20	66. 00	94, 588. 20	52, 538. 19	147, 126. 47	891, 676. 26
The Natchez, Columbia & Mobile R. R. Co.	9, 741. 01	34, 442. 57		34, 442. 57		34, 442. 57	672, 000. 83
Oneida & Western R. R. Co.	8, 698. 12	18, 621. 11	180. 00	18, 441. 11	693. 23	18, 117. 78	620, 691. 16
Pearl River Valley R. R. Co.	17, 902. 91	3, 870. 86	4, 875. 54	14, 795. 11	24, 756. 55	9, 971. 44	600, 031. 94
The Pinkens R. R. Co.	1, 892. 77	1, 578. 14		3, 470. 91	4, 732. 57	1, 261. 66	156, 096. 37
Raleigh & Charleston R. R. Co.	71, 224. 46	18, 489. 96	5, 836. 13	4, 703. 83	36, 457. 61	41, 560. 67	1, 144, 124. 65
Savannah & Atlanta Ry.	134, 871. 83	20, 643. 61	450. 39	21, 059. 90	467, 553. 92	446, 453. 98	4, 709, 617. 55
Savannah & Statesboro Ry. Co.	6, 928. 11	4, 791. 88	1, 790. 22	2, 491. 28	15, 848. 96	18, 340. 24	508, 467. 86
Sylvania Central Ry. Co.	2, 400. 46	101. 76	424. 68	322. 92	1, 710. 80	1, 387. 88	81, 672. 84
Tallulah Falls Ry. Co.	8, 962. 15	8, 668. 64	1, 149. 19	9, 817. 83	76, 014. 39	66, 196. 56	1, 752, 349. 40
Tampa & Gulf Coast R. R. Co.	193, 094. 01	234, 524. 88	8, 331. 63	242, 856. 51	100, 977. 84	141, 878. 67	1, 993, 694. 40
Tampa & Jacksonville Ry. Co.	7, 682. 00	998. 25	1, 775. 00	999. 75	28, 132. 49	27, 265. 74	1, 211, 598. 69
Tampa Northern R. R. Co.	52, 647. 69	10, 647. 90	17, 227. 01	6, 579. 11	121, 895. 10	115, 316. 99	2, 031, 957. 56
Tennessee, Kentucky & Northern R. R. Co.	6, 180. 04	13, 760. 20		13, 760. 20	7, 372. 67	6, 393. 53	899, 152. 50
Townsville R. R. Co.	3, 002. 00	918. 00			2, 448. 00	1, 530. 00	276, 390. 00
The Union Point & White Plains R. R. Co.	14, 049. 19	6, 569. 26	262. 58	20, 871. 03	15, 076. 64	5, 794. 39	94, 923. 53
Wadley Southern Ry. Co.	9, 315. 23	86, 143. 29	748. 06	23, 396. 63	40, 032. 22	72, 208. 64	1, 403, 050. 64

Financial statement for railroads shown calendar year 1914—Continued

[Figures in bold-face indicate deficits]

Road	Deductions from railway operating income	Net railway operating income	Non-operating income	Gross income	Deductions from gross income	Net income	Total investment
Waco Shoals R. R. Co.	$130 00	$1,262 24		$1,402 24	$1,262 24	$210 00	$30,372 00
Washington & Lincolnton R. R. Co.	16,980 00	16,794 00	$3,943 00	23,630 00	20,730 00	1,695 00	280,264 00
Wellington & Powellsville R. R. Co.	2,680 00	8,270 38		8,270 38	1,160 53	9,662 98	191,262 00
Wrightsville & Tennille R. R. Co.	30,254 10	16,690 06	3,773 49	22,462 55	10,090 19	12,462 14	1,080,680 23
Yadkin R. R. Co.	34,925 35	34,620 35	3,027 13	37,647 48	102,577 60	44,130 39	1,505,057 90
Total		1,080,267 44				1,398,676 97	60,544,980 20

Return, 1.320 per cent on total investment.

Net income, 2.304 per cent on total investment.

SOURCE.—Statements of individual lines shown and taken by them from their reports to the Interstate Commerce Commission.

EXHIBIT No. 285

I. C. C. Docket No. 16295. Witness, J. A. Streyer

Financial condition, calendar year, 1923

[Figures in bold face indicate deficits]

Road	Total operating revenues	Total operating expenses		Railway tax revenue	Uncollectible railway revenues	Hire of equipment and joint facility net rentals	Net railway operating income (amount)
		Amount	Ratio to total revenue				
Aberdeen & Rockfish R. R.	$181,961.58	$125,613.22	69.03	$5,263.86		$25,910.92	$51,084.50
Alabama, Tennessee & Northern R. R.	988,694.24	946,092.15	95.69	23,038.89	$1.30	42,933.40	46,279.69
Atlantic & Western R. R. Co.	83,610.65	67,223.93	80.40	1,909.50		14,282.42	294.80
Atlantic and Yadkin Ry.	1,025,444.65	994,340.26	96.99	33,504.27	467.78	131,790.49	188,948.73
Birmingham & Southeastern Ry. Co.	196,642.34	158,871.30	80.80	2,460.00		19,618.21	33,770.94
Buffalo, Union-Carolina R. R.	113,800.00	84,700.00	74.38	3,450.00		15,950.00	181.00
Carolina & Northwestern Ry.	913,900.00	695,062.00	75.03	30,280.00	94.00	121,447.00	76,420.00
Chattahoochee Valley Ry. Co.	260,071.98	179,953.62	69.19	8,077.03		38,453.35	33,585.98
Danville & Western Ry.	672,374.00	494,121.00	73.49	27,804.94		74,016.00	41,950.00
Durham & Southern Ry. Co.	647,246.00	461,897.00	71.36	26,898.00	3,193.00	22,260.00	130,998.00
East & West Coast Ry.	983,434.30	876,434.18	64.51	45,917.01		76,222.13	84,860.98
Elberton & Eastern R. R. Co.	199,342.82	102,644.86	93.67	17,497.65		26,201.01	37,002.30
Flint River & Northeastern R. R. Co.	137,437.37	91,271.21	66.90	3,246.69	36.77	23,089.46	18,143.24
Florida, Central & Gulf R. R.	43,248.70	20,211.66	67.54	3,155.82	8.00	5,093.25	5,780.97
Guryville Northern R. R. Co.	58,042.71	37,480.21	109.37	12,405.90		2,597.54	14,948.55
Georgia & Florida Ry.	86,815.09	73,691.26	87.30	3,986.50		10,494.05	3,338.72
	1,755,526.00	1,346,788.00	75.99	74,745.00	962.00	115,250.00	236,746.00

Financial condition, calendar year, 1955—Continued

[Figures in bold face indicate deficits]

Road	Total operating revenues	Total operating expenses		Railway tax revenue	Un-collectible railway revenues	Hire of equipment and joint facility net rentals	Net railway operating income (amount)
		Amount	Ratio to total revenue				
Georgia, Ashburn, Sylvester & Camilla Ry. Co.	$99,685.69	$71,330.68	78.71	$6,478.62		$10,679.29	$2,126.75
Georgia, Florida & Alabama Ry. Co.	630,996.93	602,602.75	78.52	42,093.35	$608.00	57,577.43	77,666.40
Georgia Northern Ry.	316,150.12	230,482.41	74.31	16,954.32	112.16	23,180.77	41,460.76
The Greene County R. R. Co.	34,959.26	40,467.55	86.29	2,309.06		6,345.75	**2,462.98**
Hampton & Brunsville R. R.	36,686.77	37,686.73	80.12	2,271.31	14.69	7,267.75	**4,686.99**
Lancaster & Chester Ry. Co.	166,807.68	126,737.87	65.83	11,818.71		14,697.95	40,413.12
Lawrenburg & Southern R. R. Co.	140,906.69	89,307.12	63.43	4,777.68		19,946.19	25,680.62
Live Oak, Perry & Gulf R. R. Co.	352,252.13	210,894.44	59.79	20,228.55	15.77	6,695.09	121,602.57
Macon, Dublin & Savannah R. R.	735,360.06	660,217.23	87.04	20,514.62	193.25	78,250.45	**5,892.98**
Muscle Shoals, Birmingham & Pensacola Ry.	486,625.39	454,061.47	90.00	24,363.77		90,012.50	**180,998.36**
Natchez, Columbia & Mobile R. R.	365,264.96	198,991.85	119.84	5,699.86		9,285.75	**62,662.89**
Raleigh & Charleston R. R.	120,695.24	97,612.62	73.79	6,399.70	1.79	17,330.26	7,709.67
Savannah & Atlanta Ry.	3,867,291.92	515,685.99	85.79	19,709.60	961.62	157,640.58	**290,685.27**
Savannah & Statesboro Ry.	66,812.37	72,909.81	110.62	4,712.89	239.59	5,770.19	**17,912.84**
Shearwood Ry.	66,935.64	66,916.71	70.11	2,600.60		9,364.25	**8,180.99**
Sylvania Central R. R.	37,945.63	34,588.99	91.27	1,436.54	81.86	342.11	**1,281.13**
Tampa & Gulf Coast R. R.	600,985.68	452,155.25	75.24	30,654.10	86.90	108,611.62	19,427.63
Tampa Northern R. R.	227,194.51	179,339.68	79.96	31,663.63	3.36	5,493.90	10,633.60
Wadley Southern Ry.	119,011.73	135,548.90	114.66	10,773.57	660.04	8,125.86	**21,096.66**
Wrightsville & Tennille R. R.	354,680.46	279,986.91	79.75	25,227.64	1,667.75	21,412.00	22,776.26

SOURCE.—Reports of the carriers to the Interstate Commerce Commission.

Exhibit No. 285

I. C. C. Docket No. 16295. Witness J. A. Streyer

Financial statement calendar year 1924, except as shown

Road	Total operating revenues	Total operating expenses—car hire joint facility rentals, and taxes	Net railway operating income	Interest on funded and unfunded debt	Total investment
Bamberg, Erhardt & Walterboro R. R. Co.	$34,917.00	$33,044.35	$1,872.65	.....	[1] $60,964.00
Bennettsville & Cheraw R. R. Co.	113,866.84	93,222.57	18,644.27	5,050.00	[1] 311,176.00
Blue Ridge Ry. Co.[2]	272,760.33	267,807.20	4,953.13	6,000.00	.....
Fernwood, Columbia & Gulf R. R. Co.	322,853.00	275,920.00	46,933.00	39,555.00	[1] 866,632.00
The Greene County R. R. Co.	49,777.06	41,261.20	1,484.14	4,062.55	[1] 156,996.80
High Point, Thomasville & Denton R. R. Co.	83,674.71	82,446.85	1,227.86	6,268.79	[3] 276,320.00
The Northwestern R. R. of South Carolina	226,040.38	196,693.82	29,346.76	15,150.00	[3] 385,000.00
Tampa & Jacksonville R. R. Co.	101,615.55	102,523.80	908.25	28,132.40	[4] 1,211,058.69

[1] I. C. C. tentative valuation under protest.
[2] Year 1923 figures used.
[3] I. C. C. tentative valuation under protest plus additions and betterments since valuation.
[4] Book value.

Exhibit No. 287

I.C.C. Docket No. 16295. Witness, Streyer

Average revenue per ton, per ton-mile, per car-mile, and per car calendar year 1923

Road	Average miles operated (freight service)	Freight revenue (account 101)	Revenue tons carried	Revenue ton-miles	Loaded freight car-miles (including mixed trains)	Revenue ton-miles of road	Average haul per revenue ton	Average revenue per			Average revenue tons per loaded car	Average revenue tons per loaded car [1]
								Ton carried	Ton-mile	Loaded car-mile		
									Cents			
Aberdeen & Rockfish R. R.	44.90	$135,488.60	99,634	2,102,266	64,872	68,628	22.00	$1.35879	7.080	$1.94329	26.00	$40.55
Alabama, Tennessee & Northern R. R.	166.00	606,143.61	403,220	15,340,661	780,733	4,344,460	38.55	2.00568	5.197	1.0346		
Atlantic & Western R. R. Co.	34.00	73,052.02	73,927	911,124	36,703	37,963	10.00	.97300	6.220	1.2566	25.00	34.25
Atlantic and Yadkin Ry.	163.10	763,616.63	857,083	36,645,680	1,796,160			.86043	2.084	.42494		
Birmingham & Southeastern Ry. Co.	46.20	178,660.60	126,089	1,919,971	240,672	3,979	30.60	1.51314	9.326	1.72221	19.00	26.88
Buffalo, Union-Carolina R. R.	20.00	104,062.00	61,300	1,037,700	96,929	52,683		1.69641	9.641	1.07300		
Carolina & Northwestern Ry.	133.30	760,474.00	462,019	15,107,035	923,740	113,161	32.63	1.64580	5.034	.82328	16.25	26.66
Chattahoochee Valley Ry. Co.	44.53	241,134.91	170,720	5,055,260	165,766	2,955,240	46.40	1.34363	7.905	1.20964	22.90	30.64
Columbia, Newberry & Laurens R. R. Co.	72.00	584,941.00	447,486	16,032,995	1,304,324	240,427	40.70	1.16921	2.961	.39598	22.33	36.46
Danville & Western Ry.	62.04	342,737.00	238,744	7,893,342	678,703	96,216	33.06	2.27300	6.876	.90194	11.66	26.50
Durham & Southern Ry. Co.	59.97	527,622.60	330,774	13,656,573	674,436	197,699	36.24	1.64484	4.536	.78251	21.85	35.94
East & West Coast Ry.	30.12	67,971.64	68,392	1,302,048	113,708	23,084	13.64	.99402	7.318	.77388	16.37	10.55
Elberton & Eastern R. R. Co.	33.32	128,779.20	150,312	3,421,956	165,460	101,997	27.75	.86072	3.560	.77830		
Flint River & Northwestern R. R. Co.	39.95	60,260.55	43,049	930,640	67,066	33,150	16.81	.98202	6.476	.65640	21.40	20.12
Florida, Central & Gulf R. R.	29.67	51,220.60	103,023	1,966,411	94,434	62,910	19.40	.61614	2.706	.69795	22.67	11.19
Graysville Northern R. R. Co.	35.00	70,525.79	90,580	2,135,455	80,827	61,012	22.00	.76804	3.724	.98300	27.70	22.10
Georgia & Florida Ry.	606.34	14,226.30	878,222	94,107,055	4,371,206	297,300	93.87	1.62104	1.691	.22618	19.20	31.27
Georgia, Ashburn, Sylvester & Camilla Ry. Co.	65.98	96,357.77	72,066	1,990,826	134,679	35,011	26.26	1.20125	4.802	.64360	22.50	27.69

Georgia, Florida & Alabama Ry. Co.	192.86	905,867.10	443,413	31,511,144	1,436,697	163,380	71.96	1.30166	2.113	.45711	19.67	28.04
Georgia Northern Ry.	67.76	261,184.10	203,286	6,479,257	393,606	95,394	31.85	1.28438	4.031	.66342	21.10	27.69
The Greene County R. R. Co.	10.66	35,163.37	54,228	1,084,054	54,730	32,516	10.05	.97328	5.141	.97137	10.00	18.58
Hampton & Branchville R. R.	24.00	69,708.27	41,316	112,048	27,422	4,668		1.30314	4.436	1.81300		
Lancaster & Chester Ry. Co.	26.00	175,790.34	124,982	3,160,552	160,942	148,995	25.00	1.41013	5.309	1.09264	25.00	35.25
Lauringburg & Southern R. R. Co.	30.00	138,000.63										
Live Oak, Perry & Gulf R. R. Co.	80.19	281,340.57	228,707	6,342,618	440,557	71,562	27.91	1.23105	4.413	.62628	27.00	33.00
Macon, Dublin & Savannah R. R.	92.30	363,986.74	326,940	34,286,661	1,673,677	370,398	64.82	1.10615	1.708	.34962	20.49	22.67
Muscle Shoals, Birmingham & Pensacola Ry.	142.94	386,323.61	231,321	20,800,084	1,056,786	201,836	87.07	1.10600	1.369	.36487	27.25	31.77
Natchez, Columbus & Mobile R. R.	39.42	156,472.32	367,616	8,567,356	410,249	201,213	23.31	.42364	1.826	.38140	20.35	8.74
Raleigh & Charleston R. R.	42.39	111,411.56	102,561	1,271,280	107,564	20,927	11.98	1.01496	5.764	1.08580	11.82	12.02
Savannah & Atlanta Ry.	147.17	972,755.69	590,960	67,246,720	3,143,663	456,953	120.31	1.73779	1.450	.39400	15.00	26.17
Savannah & Statesboro Ry.	32.60	67,753.36	30,934	834,053	63,364							
Shorewood Ry.	38.60	50,987.41	66,080	909,874	49,792	22,805	18.90	1.30104	6.860	1.20275	17.14	22.26
Sylvania Central R. R.	14.65	26,297.00	21,320	253,687	24,779	17,317	11.90	1.23267	1.036	1.09000	10.24	12.30
Tampa & Gulf Coast R. R.	86.00	442,630.37	370,401	14,124,735	690,673	104,009	56.13	1.19558	3.135	.67000	21.29	25.57
Tampa Northern R. R.	64.26	132,841.54	202,274	6,512,963	210,680	101,353	24.83	.50949	2.040	.63082	30.90	13.65
Wadley Southern Ry.	88.74	92,954.96	68,750	1,944,638	138,953	21,914	28.20	1.35207	4.780	.56613	12.30	16.63
Wrightsville & Tennille R. R.	103.60	276,301.59	228,982	7,834,288	457,402	75,814	34.20	1.29965	3.518	.69265	17.17	20.71

[1] Represents average revenue per ton by the average revenue tons per loaded car.

SOURCE.—Reports of the carriers to the Interstate Commerce Commission.

Exhibit No. 442

I. C. C. Docket 16295. Witness, Hayward

Comparison of rates on fertilizers from Meridian, Miss., to various points in Alabama and Georgia with rates from Montgomery, Ala., Atlanta, Ga., for similar distances

From—	To—	Miles	Rate per ton
Meridian, Miss	York, Ala	27	153
Montgomery, Ala	Hornsby, Ala	27	124
Atlanta, Ga	Lawrenceville, Ga	35	135
Meridian, Miss	Livingston, Ala	36	171
Montgomery, Ala	Cuny	36	135
Atlanta, Ga	Lawrenceville, Ga	35	135
Meridian, Miss	Boligee, Ala	53	196
Montgomery, Ala	Selma, Ala	50	113
Atlanta, Ga	Bremen, Ga	53	139
Meridian, Miss	Akron, Ala	71	225
Montgomery, Ala	Cusseta	77	180 (175)
Atlanta, Ga	Rome, Ga	73	180
Meridian, Miss	Moundsville, Ga	87	234
Montgomery, Ala	Nelson, Ala	85	205 (180)
Atlanta, Ga	Macon, Ga	88	203
Meridian, Miss	Crabtree, Ala	93	241
Montgomery, Ala	Sylacauga, Ala	86	180
Atlanta, Ga	Anniston, Ala	104	203
Meridian, Miss	Tuscaloosa, Ala	97	243
Montgomery, Ala	Sylacauga, Ala	86	180
Atlanta, Ga	Anniston, Ala	104	203
Meridian, Miss	Jasper, Ala	162	311
Montgomery, Ala	Enterprise, Miss	169	260
Atlanta, Ga	Birmingham, Ala	148	214
Meridian, Miss	Lewis, Ala	174	340
Montgomery, Ala	Lauderdale, Miss	172	259
Atlanta, Ga	Augusta, Ga	171	262
Meridian, Miss	Pell City, Ala	186	372
Montgomery, Ala	Newton, Miss	180	311
Atlanta, Ga	Cuthbert, Ga	161	330
Meridian, Miss	Uniontown, Ala	202	363
Montgomery, Ala	Macon, Miss	203	230
Atlanta, Ga	Whitehall, Ala	200	262
Meridian, Miss	Opelika, Ala	220	366
Montgomery, Ala	Pelahatchie, Miss	223	330
Atlanta, Ga	Tuscaloosa, Ala	272	311
Meridian, Miss	Jessiger, Ala	226	340
Montgomery, Ala	State Line, Miss	226	260
Atlanta, Ga	Crabtree, Ala	226	260
Atlanta, Ga	Selma, Ala	225	214
Meridian, Miss	Eufaula, Ala	253	360
Montgomery, Ala	Brandon, Miss	224	330
Atlanta, Ga	Moundsville, Ala	287	372
Meridian, Miss	Cedartown, Ga	270	360
Montgomery, Ala	Forvis, Miss	256	330

***Comparison of rates on fertilizers from Meridian, Miss., to various points in Alabama and Georgia with rates from Montgomery, Ala., Atlanta, Ga., for similar distances*—Continued**

From—	To—	Miles	Rate per ton
Atlanta, Ga	Akron, Ala	248	$3.01
Meridian, Miss	Americus, Ga	268	4.26
Montgomery, Ala	Latonia, Miss	262	3.35
Atlanta, Ga	York, Ala	291	3.40
Meridian, Miss	Atlanta, Ga	319	3.60
Montgomery, Ala	Acra, Miss	325	4.04
Atlanta, Ga	Meridian, Miss	319	3.15
Meridian, Miss	Florala, Ala	343	3.07
Montgomery, Ala	Forest, Miss	306	3.37
Atlanta, Ga	Macon, Miss	341	3.64
Meridian, Miss	Elberton, Ga	426	4.53
Atlanta, Ga	Hillsdale, Miss	437	4.50

Tariff authorities.—Southern Ry. Georgia Fertilizer Tariff 6, I. C. C. A-9603; A. & W. P. Fertilizer, Tariff 1305-B I. C. C. 1145; Southern Ry. Tariff I. C. C. A-9489; Alabama Great Southern, Tariff 1500-A I. C. C. 1544.

Exhibit 500

I. C. C. Docket 16295. Witness, Bosley

Southern region, class one carriers (exclusive Pocahontas district) for calendar years ended December 31

	1922	1923	1924	1925 (first 6 months)
Property investment, including materials, supplies, and cash on hand	$2,576,404,921	$2,651,000,000	$2,741,431,000	
Tentative valuation, plus net additions since Jan. 1, 1920	2,174,714,000	2,220,474,000	[1] 2,310,965,000	
Property investment in excess tentative valuation plus net additions since Jan. 1, 1920	401,690,921	430,526,000	[1] 430,526,000	
Net railway operating income after deducting Federal income taxes	109,606,778	129,924,692	142,554,436	$75,124,038
Rate of return on property investment after deducting Federal income taxes (per cent)	4.26	4.90	5.20	5.56

[1] No carriers' figures available showing tentative valuation plus net additions since Jan. 1, 1920, as of Jan. 31, 1924. Those shown are arrived at by adding to tentative valuation figures plus net additions since Jan. 1, 1920, as of Jan. 31, 1923, same amount as carriers' property investment account increased 1924 over 1923.

Southern region, class one carriers (exclusive Pocahontas district) for calendar years ended December 31—Continued

	1922	1923	1924	1925 (first 6 months)
Rate of return on tentative valuation plus net additions since 1920 after deducting Federal income taxes (per cent)	5.04	5.83	6.17	[1] 6 to 7
Net railway operating income before deducting Federal income taxes	$135,233,631	$148,371,063	$162,919,353	$83,856,043
Rate of return on tentative valuation plus net additions since Jan. 1920 (before deducting Federal income taxes) (per cent)	5.76	6.69	[1] 7.05	[1] 7 to 8
Fixed as fair rate of return by commission in reduced rates, 1922 (per cent)	5.75	5.75	5.75	5.75
Net railway operating income in excess of fair return of 5.75 per cent on tentative valuation, plus net additions since Jan. 1, 1920 (before deducting Federal income taxes)	$267,626	$30,025,510	$60,042,314	.....

[1] No carriers' figures available showing tentative valuation plus net additions since Jan. 1, 1920, as of Jan. 31, 1924. Those shown are arrived at by adding to tentative valuation figures plus net additions since Jan. 1, 1920, as of Jan. 31, 1923, same amount as carriers' property investment account increased 1924 over 1923.

NOTE.—Carriers continue to show their net railway operating income after deducting Federal income taxes and to show rate of return on book value or property investment. Commission declined to accept book value or property investment account as fair valuation in Ex Parte 74 and fixed tentative valuation much less for rate-making purposes. As to the impropriety of deducting Federal income taxes before arriving at net railway operating income and rate of return the Commission said in *Reduced Rates, 1922:*

"In our view railroad corporations should, like other corporations, pay their Federal income taxes out of the income, rather than collect it, in effect, from the public in the form of transportation charges adjusted to enable it to retain the designated fair return over and above the tax."

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